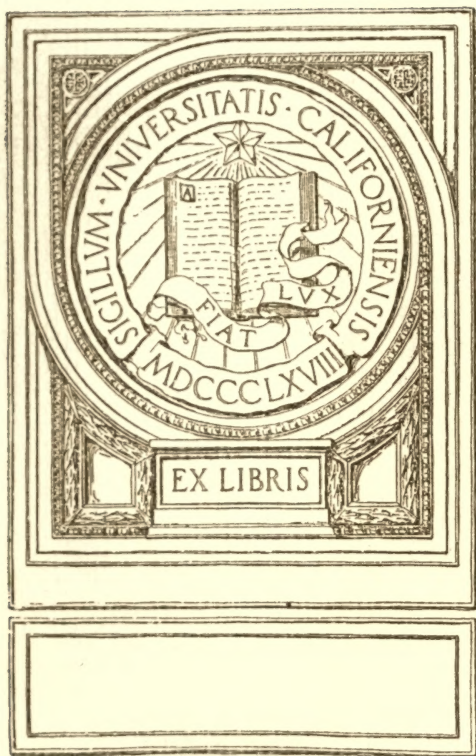
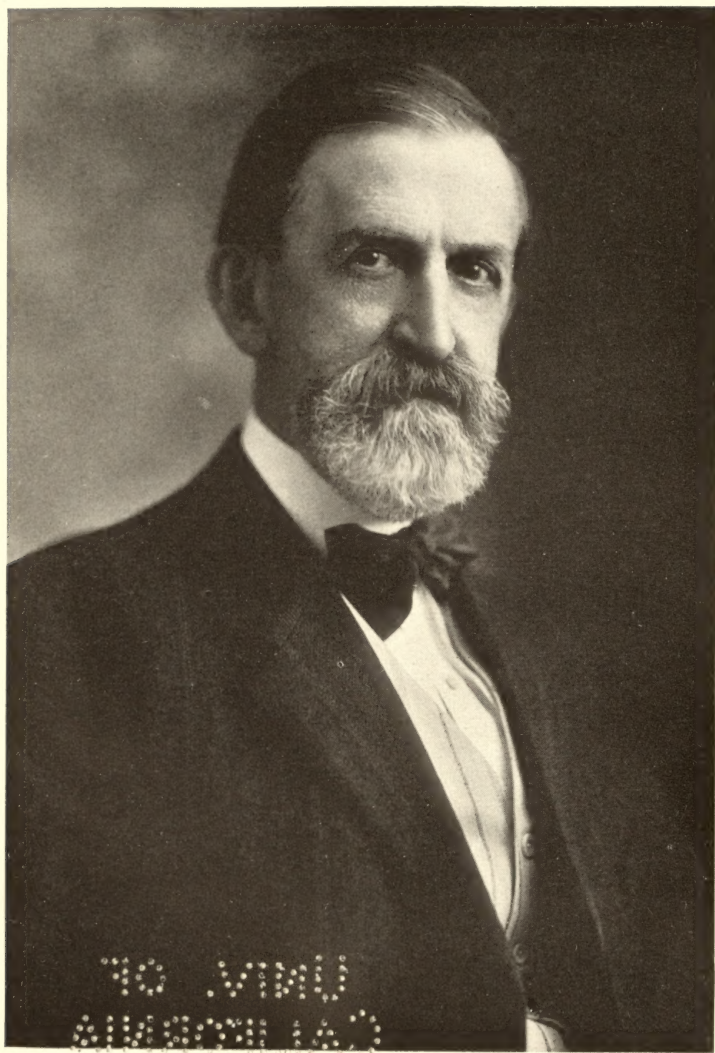


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THE LIFE OF
JOHN WORTH KERN

THE
CITY OF
NEW YORK



JOHN WORTH KERN—1913

THE LIFE
of
JOHN WORTH KERN

By
CLAUDE G. BOWERS



INDIANAPOLIS
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1917

DEDICATED
TO
JOHN WORTH KERN, JR.
AND
WILLIAM COOPER KERN

"It is fine to feel that one's boy may become a great man; but I would rather that my boys should be good without being great, than to be great without being good."—SENATOR KERN.

ACKNOWLEDGMENTS

IN the preparation of this biography, in the midst of the duties of an exacting profession, I wish to acknowledge my indebtedness to Vice-President Marshall, Secretary of the Treasury William G. McAdoo, Secretary William B. Wilson, William Jennings Bryan, Judge Alton B. Parker of New York, Senator Saulsbury of Delaware, Senator Kenyon of Iowa, Senator Lea of Tennessee, Senator Thomas of Colorado, Senator O'Gorman of New York, Senator Taggart of Indiana, Leon O. Bailey of New York, "Mother" Jones, Andrew Furseth the Emancipator of the Seamen, Jackson Morrow of Kokomo, Indiana, John Callan O'Laughlin of Chicago, Louis Ludlow of Washington, D. C., Thomas Shipp of Washington, D. C., W. H. Blodgett and Kin Hubbard of the *Indianapolis News*, for data, verifications and reminiscences.

And I am under the deepest obligations to Robert E. Springsteen of Indianapolis, and Howard Roosa, editor of the *Evansville Courier*, for services too numerous to mention.

C. G. B.

INTRODUCTION

VICE-PRESIDENT'S CHAMBER,

WASHINGTON, D. C.

BECAUSE carping Pilot asked "What is truth" and did not stay for an answer, the world has thought that question to be the one unsolved riddle. Yet there are many other attributes to which answers have been given that are almost, if not altogether, as great riddles.

What constitutes greatness has received as many answers as there have been men to express them. It all depends upon the mental process of a man as to whether his fellow man has attained unto greatness. The paladin of finance would consider it a joke to be told that an Egyptologist was a great man; the doer of deeds can never think of greatness as an attribute to the dreamer of dreams; and thus it is that the estimate by one man of another will only pass current with those of like mind.

For me, it has been needful that brain and heart should work in unison in the life of a man in order to render his story worthy of being embalmed in a biography. Mere intellect is not sufficient; mere emotion unsatisfactory. For thirty years I knew all about and I also knew John Worth Kern. Heaven molded him with a clear and analytic mind—a mind

capable of grasping and elucidating the great problems of state—and then Heaven further endowed him with a tender and loving heart, so that much as he believed in the principles for which he stood and the faith which he avowed, he had that large-hearted and generous judgment of his fellow men which mark, to my mind, true greatness.

It is the measure of a little man to be cocksure, to be eternally and everlastingly right, to be quite certain that Jehovah gave into his hands all knowledge, all goodness and all power. It is the measure of a really great man to walk with certainty and yet to walk humbly in his public life, granting to other men the right to think, to speak, to act freely.

This was the grade of man John Worth Kern was. He showed it in his brilliant services at the bar, in his forceful presentation of his party's principles on the stump and in that kindly, loveable leadership which, when he left the Senate of the United States, made it the supreme desire of political friend and foe alike to do something for him as the shadows of night began to gather around his head. To my mind he was one of Indiana's great and illustrious citizens whose life, when read by the schoolboy of to-day, will help to sweeten, glorify and adorn the public service of to-morrow.

It were impious here to speak of his beautiful home life. He was great in the counsels of his party

but in his home he transcended the common mortal and became a demigod of love and good will. The Indianian will know him and love him even more, if possible, when this biography is read and it is remembered that it is the free-will offering of a man who saw our dear, dead statesman and citizen in his hours of exultation, in his moments of depression, when his soul was bare to the inspection of a man who knew when he saw what he saw.

THOMAS R. MARSHALL.

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LIFE OF JOHN W. KERN

CHAPTER I

CHILDHOOD AND EARLY YOUTH

I

IN the forties the constant stream of sturdy pioneers pouring into Indiana from the eastern and southern states began the work of redeeming the state from the wilderness. These early settlers were a hardy folk, adventurous, inured to toil, and strong of character. In 1840 the first white man settled in Harrison township in Howard county, albeit the locality had been a paradise for trappers for several years before a permanent settlement was made. It was a country of rich soil, but heavily wooded with primeval forests, and many years of assiduous labor were to intervene before the stumps could be cleared from the fields or the highways be made at all passable in bad weather. Almost immediately after the first white man established a permanent home in the township a water mill was built, and about it a settlement sprang up which took the name of Alto. Soon the village boasted—and the word is used advisedly—three stores, three cabinet shops, a blacksmith shop, a boot and shoe shop, and during the first two

years of its existence it did as much business as Kokomo, a few miles distant. Here was constructed the first church in the township, a large one built of logs, which was to serve as a place of worship for many years. And in the middle of the first decade of the existence of this settlement in the wilderness Dr. Jacob Harrison Kern moved to the village, built a home and opened an office.

Doctor Kern's great grandfather, Adam Kern, had emigrated from Germany about the middle of the eighteenth century, with ten children, seven of whom were boys, and settled in Frederick county, Virginia. One of his sons, the grandfather of Doctor Kern, had made his home at Kernstown, Virginia, about four miles south of Winchester, where six sons were born, the eldest, Nicholas, and the father of the future medical adviser of Alto, having first looked out upon the world on the third anniversary of the signing of the Declaration of Independence, and in the midst of the revolutionary war. He was the father of ten children, the sixth of whom, born in December, 1813, was christened Jacob Harrison. In 1838 Dr. Kern, accompanied by three of his brothers, moved to Shelby county, Indiana, bringing with them an old negro woman known as "Aunt Giny," whom they set free. A little later the doctor, who appears to have been a victim of the wanderlust after leaving his Virginia home until his ultimate return, moved

to Warren county, Ohio, where he began the practice of medicine. Here he met and married a Nancy Ligget, who is remembered by her daughter as "a comely woman, tall, rather slender and with black hair and eyes." Here the first child, Sally, was born in 1845, and soon after this event the little family moved to Alto.

Doctor Kern was a rather stern, grimly serious man, of exceptional professional capacity, and strong mentality, and his reputation as a physician spread through the surrounding country, resulting in an extensive practice for miles about. He was what is popularly known as a "strong character," possessed of little of the sense of humor with which his more celebrated son was so abundantly gifted. Asked for a description or characterization of him, the few, now living, who remember him almost invariably hesitate and begin with the comment, "Well, it is rather difficult to describe him. He was an unusual man—different from most men. He had a fine mind and a fine character." His son remembered him with an affection in which admiration predominated. He was cast in the Puritanic mould, abhorring indolence and vice, preaching and practicing frugality and toil.

At the edge of the village he built a home which was considered a pretentious structure for the time and place, although it consisted of but two rooms. The fact that instead of being a rough log hut it was

weatherboarded and had "two front doors" was enough to stamp it in the wilderness as the abode of the patrician of the community.

Here on December 20, 1849, just nine years after the first white man settled in the township, John Worth Kern was born.

II

The first five years of his life were spent in the house with the "two front doors" and differed in no wise from the early childhood of the other children of the wilderness community except that he had more of the comforts than fell to the lot of many others. The only picture of the future senator of that period that is preserved is in the memory of the venerable sister—a picture of the boy in his favorite amusement, sitting astride an old discarded saddle on a carpenter horse with a pair of saddle bags filled with powders and bottles, going to visit an imaginary patient, and solemnly giving instructions to "give him one powder every hour till Monday, and if he 'plains of it give it to him agin."

In 1854 Doctor Kern moved with his family to Warren county, Iowa, where the next nine years were spent near Indianola in pleasant surroundings, with congenial neighbors, and in the midst of plenty. Here we get our first glimpse of the future partisan in an incident connected with the Lincoln-Douglas campaign of 1860. From his earliest boyhood he

knew he was a Democrat and he took no pains to conceal the fact. During the dramatic campaign of 1860 he frequently drove to Indianola with a load of wood, and on these expeditions he attracted attention by his vociferous yelling for Douglas. On going to town after the election, he was accosted by a friend of his father's with the query as to how he felt over the result.

"Like Lazarus," snapped the eleven-year-old partisan.

"Why, how is that?" he was asked.

"Like I'd been licked by the dogs," was the quick retort.

After the death of Mrs. Kern the doctor soon lost his taste for far western life and in 1865 he returned with his two children to Alto, which was to remain the home of the family until after the only son commenced his professional career.

At the time young John returned to the house of his nativity, a tall, lightly built youth of fifteen, he immediately was accorded a position of leadership among the boys and girls of his own age. The social activities of the community were of a simple nature and revolved about the church. The young people met at the Sunday school services in the old log Methodist church, and at the Cobb church a mile distant from the village, for gossip and flirtations, and it was in connection with the Sunday school that

the future statesman first attracted attention to his precocious ability. I am indebted to Mr. Jackson Morrow, a life-long friend, for a description of this event. "John was then an active member of the Alto Methodist Sunday school," he writes. "In that day the annual Sunday school celebration was the great social event of the community. In the community were numerous country churches and each maintaining its Sunday school. It was during the summer of 1865 that there was held in a beautiful grove adjoining Alto a celebration of rather more than ordinary merit. It was an all-day affair. The forenoon was devoted to singing by the various schools in attendance and an address by a local celebrity. Then followed the picnic dinner—a sumptuous affair requiring an hour and a half for its disposal. The afternoon was largely given over to recitations and the reading of original papers by selected members of the several schools. John Kern represented the Alto school with a paper. His theme was Temperance. He attacked the saloon and drunkenness in a vigorous manner. It was really an able paper and read in his clear, incisive and earnest manner captured the large audience. From every quarter the comment was heard that if a mere boy could make such an address much could be expected of him when he became a man. The paper was singled out for publication in the county paper."

About this time he entered the Old Kokomo Normal, an educational institution much superior to most of the Indiana schools of that period. The building, a commodious one, had been erected several years before by the people of Kokomo and the surrounding country with the view to giving their children the advantage of training in the elements of higher learning and to fit them for teaching in the public schools. The head of the school at the time was Prof. E. N. Fay, a college graduate and a man of scholarly attainments, and he had surrounded himself with a competent corps of assistants. While attending the Normal young Kern lived at his home in Alto, riding his horse to Kokomo in the morning and returning in the evening. For the sake of economy he took his lunch with him. The six-mile stretch of mud road between his home and the county seat was impassable during much of the winter except on horseback. In zero weather the ambitious youth suffered severely, but having developed the habit of declaiming his lessons, and making speeches to his nag during these trips, he managed to neutralize the effect of the weather by vigorous gesticulation and an unsparing exercise of his lungs.

At the Normal young Kern is described by Mr. Morrow as "a brilliant scholar but not a plodder." He seemed to absorb the matter of the textbooks without effort. "In the study of English Grammar

he particularly excelled," writes Morrow. "He studied language not to get its dull formulas, but to know how most forcibly and clearly to express his thoughts."

It was during his Normal days that Kern determined definitely upon the study of law.

While Doctor Kern would have defrayed the expenses of his son's legal education, the latter was of an independent nature and preferred to pay his own way. With the view to making the money required for a course of legal instructions in a university, he took the examination for a teacher's license before he was sixteen, and while the examination was conducted by Rawson Vaile, a graduate of Amherst College and a stickler for thoroughness, he made a very high grade and was granted a twenty-four months' license, which was the highest permissible by the county examiner. Here enters the pedagogue.

III

The young teacher took charge of his first school at the age of fifteen, and taught two terms, but in different schools, as he never failed to observe in later years in an attempt to belittle his professional ability. His first experience as a teacher was in the home school at Alto, and in the winter of '66-7 he taught in what is still popularly known as "the old Dyar school house," about three miles east of Alto,

in the country. The John Kern of this period is described by one of the students as "tall, straight, boyish in appearance, not particular in his personal appearance, usually having his trousers over a boot strap." Those still living who knew the future senator as a country school teacher take issue with his own estimate of his success. His methods of instruction were those of an original thinker, and ignoring the hard and fast rules, he succeeded in creating an interest among the students with gratifying results. I am indebted to Albert B. Kirkpatrick, one of his students who was in later years to cross swords with him at the bar, for some interesting recollections which reflect light on the character of the youthful pedagogue:

"The school (Dyar) was large for a country school, about sixty, some boys and girls larger than the teacher. On the playgrounds Kern was one of the boys, and you would scarcely know from his conduct that he was a teacher. One day he ordered a large boy to stand upon the floor and on his refusal Kern told him he could do that or take a whipping. After school he kept the stubborn rebel, together with two other boys as witnesses, and proceeded to administer the castigation which, according to report, was quite severe. One day a dispute arose as to the ownership of a rabbit some boy had caught. Kern acted as presiding judge and found that the boy in possession of the rabbit was not the rightful

owner, and fixed as his punishment the restoration of the rabbit and the infliction of lashes, which he proceeded to lay on.

"Kern was good in the common school branches, and he especially delighted to read in McGuffey's Sixth Reader from Patrick Henry and other oratorical notables. He was fine in the school house debates and generally covered about half the school house in his orations, gesticulating wildly and speaking at the top of his voice.

"He was not methodical in his teaching, but original, and the students seemed to learn rapidly. They liked him, as a rule, although he did not then possess those remarkable social qualities that characterized him in after years."

The "school house debates" referred to were features of the Dyar school literary and debating society, which owed its existence to Kern's initiative and bore the pretentious name of the Platonian. It was during the period when the country was torn over the problems of reconstruction, and these furnished the topics for the debates. The sixteen-year-old teacher invariably took part, and his chief competitor was usually Jesse Yager, described as "a solid, substantial citizen of the community and a man of great ability." In these discussions Kern invariably took a positive stand in favor of a liberal policy toward the white people of the southern states who

had returned to their allegiance, and the carpet bagger usually came in for an unmerciful scoring. One who often heard him in those days, Jackson Morrow, in recalling the earnestness and vigor of the boy orator, expresses the opinion that these speeches "would have reflected credit upon the best statesmen of the period." Such views as were held and advocated by the young school teacher were bold indeed for the time and place. Passions still ran high, and Howard county was extreme in its republicanism of the Thad Stevens variety. Strangely enough, the boldness of the pedagogue in no wise detracted from his personal popularity and served to enhance his reputation. Many years afterward, when Kern, soon after his nomination for vice-president, returned to Kokomo to meet his old friends and neighbors in a great non-partisan reception, Jesse Yager, his polemic adversary of the Platonian days, then a very old man, occupied a place on the platform.

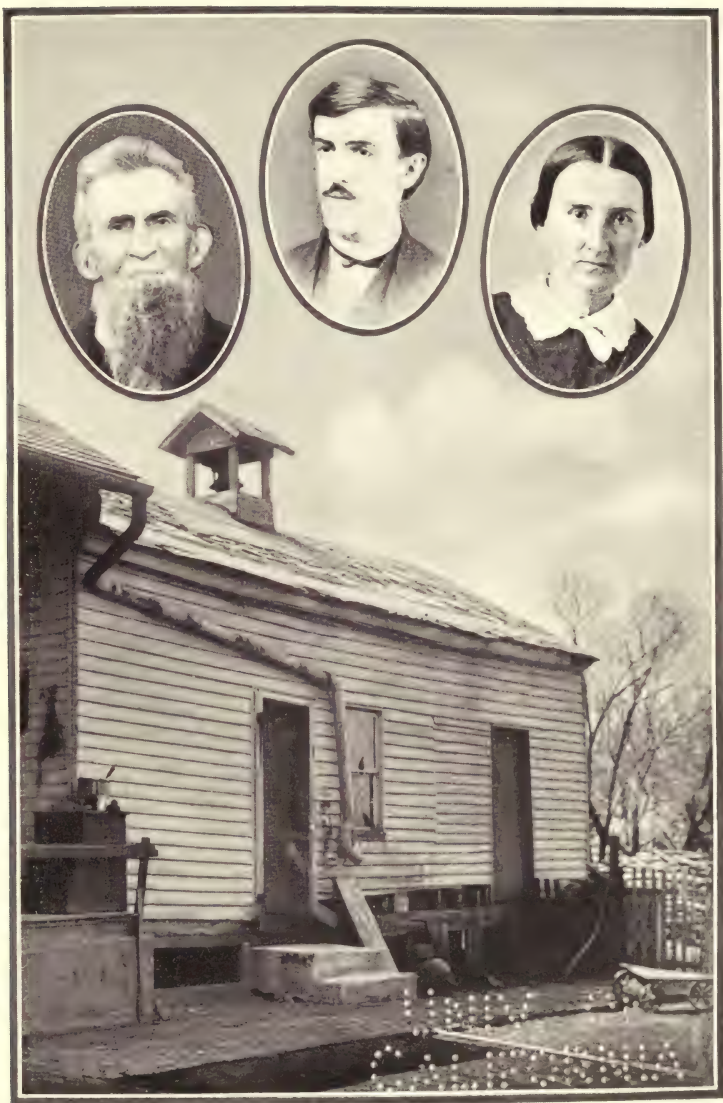
It was during the summer of 1866 that the pedagogue, a member of the "Alto Dramatic Society," made his first and only appearance "on any stage" as an actor in "The Demons of the Glass." Mr. Morrow gives an interesting description of the occasion.

"The entertainment," he writes, "was held on a delightful summer evening in a grove not far from the village of Alto. The stage was built of rough

lumber and lighted by kerosene lamps, but a full moon flooding the landscape with a mellow light, and the great spreading tops of centuries-old forest trees gave this primitive stage a beauty and dignity hard to surpass. The show was free and the people came en masse from far and near, and when the curtain rose on the entertainment a very large audience was waiting. Kern was easily the star of the evening. So realistic was his acting of the husband and father becoming a drunkard and bringing poverty and ruin on a happy home, that an unpleasant sadness stole over the audience and a strong temperance lesson was impressed upon the people present. As a boy John Kern was an enthusiastic 'dry.' "

It was toward the close of his last term of teaching that he became an active member of the Methodist church, the occasion of his conversion being a revival meeting held at Albright's chapel. For a time he became deeply religious, taking his church duties with a seriousness that attracted attention. This ostentatious spirit of worship soon passed.

During these teaching days, when the young pedagogue was preaching temperance, damning the radicalism of the Thad Stevens, protesting against carpetbag government in the southern states, practicing his embryo eloquence upon debating societies in the woods, and experiencing a spiritual awakening, he was attracting attention throughout the community



DR. JACOB H. KERN

JOHN W. KERN
At the University of Michigan

NANCY KERN

KERN'S BIRTHPLACE AS IT APPEARED IN 1908

and county as a youth of precocious ability and rare gifts. This did not affect his natural modesty or his relations with young people of his own age. The society of Alto and the neighborhood could scarcely be described as "fashionable," but its members were genuine and its friendships real. Writing of his boyish characteristics, Mr. Morrow says: "His friendship was steady and faithful. I never knew him to cut a friend as the mood or occasion might suggest. He appeared to always meet his friend with a smile and a friendly handclasp that impressed one as real, and he manifested his interest in helpful ways. He had been trained to know the value of a dollar, taught that it represented real value and should not be squandered, but if he met a friend in need and he had a dollar in his pocket that dollar was his friend's at once. He had large sympathies and in a sense he was his brother's keeper. His general character never changed."

During these pedagogue days he was giving careful attention to the selection of a college in which to prepare himself for the law, and his choice fell on the University of Michigan at Ann Arbor, then the great school of the west, with Cooley at the head of the lecture corps. He had not accumulated so much that he did not have to carefully consider the expense without drawing liberally upon his father, and this he had determined not to do. The living expenses at

Ann Arbor presented an attractive prospect as well as the faculty, and in September, 1867, he set out for the university determined to make the most of his opportunities.

IV

In the latter part of the sixties the university at Ann Arbor ranked easily as the first educational institution of the middle west. The faculty of the law department, with Thomas M. Cooley at the head, was in no wise inferior to that of Harvard and Yale. The student body was drawn from the entire Mississippi valley and beyond. The town of Ann Arbor at the time possessed the charm one likes to associate with a college town, with its pleasant homes, wide lawns, and fine old forest trees lining the streets. At the time of his matriculation young Kern, student of law, had not yet reached the age of eighteen, and here he was to spend two profitable years and receive his degree before reaching his twentieth birthday. During the two years he was compelled to economize in every possible way. In the telling of the story of his Ann Arbor days I am deeply indebted to Jackson Morrow, a boyhood friend, with whom he corresponded during the period and who has carefully preserved most of the letters written him by Kern from the university. These rather suggest a youth possessed of considerable assurance, and limited experience, inspired by much ambition, and prone to

“act up” to the rôle of the embryo lawyer. In his first letter November 3, 1867, he describes his impressions of the university.

“I got here early on Saturday morning and proceeded at once to the university, where I relieved myself of thirty-five dollars, and received a paper which entitles the bearer to a full course of law lectures in the University of Michigan. With a light heart and a materially lightened pocketbook, I then sought a boarding house, which we found at Mrs. Cramptons, in the east part of the city, where we now are paying \$4.12½ per week, or, as the people here would term it, four dollars with a shillin’. We have a good boarding house, good rooms, good fires, good appetites, etc.

“Well, the Monday following I wended my way to the Law building, where I listened to my first lecture by Hon. Thomas M. Cooley. Since then I have attended two each day, sometimes delivered by Cooley, and sometimes by one of the other professors of law—Campbell, Walker and Pond. The number of students here this winter is hardly so great as last, owing, no doubt, to the hard times, as the number of students in all the colleges of the country has materially decreased since last year. Their general library here, which is free to all, contains over 30,000 volumes and is the best place for reading I was ever in.

“I received a letter from Sturgis the other day. He is, as usual, in all his glory. A short time ago he wrote me giving his views politically, and, as they did not just suit me, I sat down and gave the gentle-

man the benefit of sixteen pages of foolscap containing some sound old Democratic doctrine which I guess he profited by, as he has held his peace ever since."

It will be noted that the Kern, the law student in his teens, was quite as partisan as in his earlier boyhood, and nothing in these letters to Morrow is more interesting than the sidelights they throw upon his political views.

In his next letter, written three weeks later, he describes the method of instruction in the law department, and gives his correspondent, who had succeeded him as teacher in the Dyar school, some sound advice as to handling the obstreperous "scholars."

"I was glad to learn that you had become teacher in Dist. No. 8, Taylor township, and wish you the greatest success in your undertaking. I think before spring you will appreciate some of my last winter's trials. The scholars, however, are generally well disposed and are not naturally vicious. My advice is not to spare the rod, but crack the whip under their bellies whenever they deserve it. . . . I sympathize deeply with every school teacher, knowing as I do the responsibility resting upon them. I think I have done my last teaching unless I ignobly fail in the study of law. I am well pleased with the study so far—as the mode of instruction here makes very pleasant what would otherwise appear intricate and difficult. We here not only get a theoretical but a practical knowl-

edge of the law, for we have club courts, so that every student may have ample opportunity of displaying his legal knowledge. I have been an attorney in four cases and have another in the Indiana Club court next Saturday. Prof. Moses Coit Tyler, professor of rhetoric and elocution in the literary department, lectures to us twice a week on elocution. This is a great advantage to us. . . . Our little winter that we had some days ago has vanished and we are now having a delightful Indian summer—warm and smoky. From all appearances the climate here is not so disagreeable as that of Indiana in the winter season. . . .”

Two weeks later he had changed his opinion of the charms of a Michigan winter and was suffering with a cold, which did not prevent him, however, from giving Morrow the advantage of his eighteen years' experience in the world on the proper method of maintaining discipline in a country school. His reference to the girls about Alto and Kokomo indicates that he was not entirely immune to the charms of the sex.

“The present juncture finds me very unwell, suffering from a miserably bad cold and a very severe sore throat. . . . We now are enjoying (?) the stern realities of a northern winter—chief among which are overcoats, overshoes, comforters, cold feet, frosted ears, etc. The ground is covered with snow to the depth of two or three inches and skating is the

chief amusement. They have a skating park here, and it is thronged every evening.

"I was glad to hear that you and the school were progressing finely—I would advise you to show a bold front—use the hickory and beech when needed, and you will succeed, for the students generally are well disposed.

"You have my very best wishes in the reorganization of the Platonian. I would like to be with you a while and excrete a 'few gas.' You may tell Mr. Madison Jackson that my days of sleigh riding are over for the present, but were I in Indiana I should very much enjoy such a tear as we had that night. You may also tell Em—that 'sparking' is old and has played out, especially sparking in the rain. When I get home I may do some little of it and she had better look out. . . ."

In his next letter dated after the first of the year 1868 he refers to his holiday dissipation at Detroit and at Windsor in Canada, and the reader will probably smile at the nineteen-year-old globe trotter's careful explanation of the location and character of Detroit:

"We have had on the whole a very pleasant vacation—though rather dull at times—and our lectures commence again to-morrow, and I'm very glad of it. We have a good sleighing snow now, and as I write I hear the sleigh bells jingling as merrily as can be. I don't indulge in the luxury of sleighing this winter, as it is really a dear luxury—only \$1.50 per hour.

"Well, on the 31st of December, the last day of the old year, I got aboard the 8 A. M. train east and went down to the metropolis of Michigan, i. e., Detroit, which is pleasantly situated thirty-eight miles east of here on the Detroit river. It is a city of about one hundred thousand inhabitants—and is improving very rapidly. . . . After we had explored Detroit very thoroughly we went across the river into Queen Vic's dominions and landed in a town of about two or three thousand inhabitants called Windsor—noted as being the stopping place of C. L. Vallandigham. Canada is a stinking place—two-thirds of the people in Windsor are Americans of African descent, while the rest are full-blooded Britishers who in point of cleanliness are in no way superior to the "cullid" folks. I got enough of Canada in a short time and recrossed into Uncle Sam's domain, took the 4 o'clock train for Ann Arbor, where I arrived at 6, being satisfied to remain there till the 28th March, when I will make my exit for Alto, the city on the hill. . . ."

The next of the Morrow letters, written in January, 1868, is especially interesting, in that it discloses the budding politician and slate maker engaged in the determination of the personnel of the national Democratic ticket for the campaign of that year. In the upper left-hand corner of the envelope he had neatly printed his ticket:

FOR PRESIDENT
GEO. H. PENDLETON
FOR VICE PRES.
CHAS. O'CONNOR
OF N. Y.

In this letter he grows enthusiastic over the action of the Indiana Democracy in nominating Thomas A. Hendricks for governor.

"Since receiving your letter I had a little sick spell, had a doctor to see me, who very kindly cured me and relieved me of six shillin's. We are now having splendid winter weather—just snow enough to make good sleighing and just cool enough to make one coolly comfortable without an overcoat. Time is flying by very—very rapidly. The four and a half months that I have remained here have glided by so rapidly and so merrily that I can but look back upon them with surprise and wish that they were here again. I have only about nine weeks to stay here, when I shall take my departure for Alto to realize the comforts of sweet, sweet home. . . . I see that the Democracy of Indiana have nominated a strong ticket with Hendricks as standard bearer. I think in the present or coming campaign we can vanquish the Radicals, defeat their candidate for governor, place T. A. Hendricks in the gubernatorial chair, send Dan Voorhees to the senate and Judge Lindsay to congress—restore the constitution and laws to their proper place, elect George H. Pendleton president of the United States, and then throw out the sails and the old ship of state will move on more smoothly than it has done since the Democratic party surrendered the country to the Radicals to be worked over."

Less than three weeks later, February 12, 1868, the young slate maker had found it well to remove

Chas. O'Connor from the national ticket as a candidate for the vice-presidency and on the envelope of his next letter we find with Pendleton the name of John P. Stockton of New Jersey. We are left in doubt as to how O'Connor had lost the support of the embryo politician or the reasons for the new partiality for Stockton. In this letter we get an inkling of some of the advantages Ann Arbor offered to a young man of Kern's ambitions and tastes. It was about this time that he had the opportunity of hearing Gough's lecture on oratory, of listening to Wendell Phillips lecture on "The Lost Arts" and of hearing E. P. Whipple. In this letter, too, we have the sole reference to Kern's participation in the work of the debating societies. It is not surprising to find that this uncompromising Democrat should have joined the "Douglas Society."

"We are now having splendid weather—good sleighing, fine skating, nice walking—in fact, everything that nature has anything to do with is conducive to a fellow's happiness.

"On Monday night John B. Gough lectured here on 'Eloquence and Oratory.' He is a splendid lecturer and his lecture, which was two hours and a quarter in length, was a success—all except the last quarter of an hour, when he exhorted the young men of the university to use all their eloquence in procuring for the down-trodden African the election franchise. The applause from the Rads was vociferous,

while from my corner came a little puny hiss. E. P. Whipple lectures here next Tuesday night, and on Saturday night Wendell Phillips speaks on 'The Lost Arts.'

"We have some good literary societies in connection with the Law Department. I belong to the 'Douglas.' On last Saturday night we discussed the question, 'Resolved that the reconstruction policy of congress is unwise and inexpedient.' "

In the debate on the reconstruction policy of congress young Kern led the debate in opposition to the policy. His attitude toward negro suffrage at this time was the position of his party, but the opposition was not wholly confined to Democrats. It was a time when party feeling ran high. Political discussions were bitter and frequently were followed by blows. Kern in his teens was a radical Democrat and never mentioned the Republicans as anything other than Radicals. In later life he was friendly to the colored race, but fifty years before he had been an extremist in his position on the proper political status of the negro. His radicalism was not moderated by the tone of the Republican press and speakers of the time. Many years later in speaking in the senate he referred to the time he had heard Zack Chandler, the great Republican leader of Michigan, making a political address in Ann Arbor, make the statement:

"Democrats talk a good deal about their rights. I recognize the fact that they have rights which they are entitled to enjoy, at least two rights—one a constitutional and the other a divine right—a constitutional right to be hung and a divine right to be damned."

It is not remarkable that with men of age and experience indulging in language of this character that a nineteen-year-old partisan should have found it provocative of retaliation.

In his last letter from Ann Arbor, January 1, 1869, we find him preparing his thesis on "The Dissolution of Agency," studying hard for his examinations, seriously considering a location for the display of his professional prowess, and instructing his friend Morrow as to the most direct route to Ann Arbor and warning him against the "abominable thieves" at Grand Trunk Junction—leaving one with the impression that he may have had an unpleasant encounter with the tribe.

"Your letter was received a few days ago and on this, the first day of the New Year, I seat myself to answer it. Eighteen hundred and sixty-nine was ushered in by a snowstorm, which had the effect of keeping the people off the streets and giving them quite a desolate appearance. I have been very busy ever since I left Indiana and am at present putting in all my time writing a thesis on 'The Dissolution of

Agency,' which calls into requisition all my legal knowledge. . . .

"We senior law students don't have quite so fine a time as we did last winter. Then all we had to do was to sit and listen to lectures, but now we are quizzed each morning on the lectures of the preceding day, and after holidays we will be examined every afternoon on last winter's lectures, to wind up with an examination of five days at the close of the term. Rather a gloomy prospect, isn't it?

"I have no particular fears but that I shall get through all right and come out a veritable LL. B. I have thought considerably in regard to my future operations and have concluded to go into business at Tipton, Indiana, for a while at least. It's rather a hard town, but as it is young and growing there are hopes for it. I had intended to locate in Iowa until after the November elections. That 30,000 majority in favor of negro suffrage staggered me.

"In coming out here you had better start on the afternoon train from Kokomo, come to Peru, and then to Toledo, buy a ticket for Grand Trunk Junction, which is three miles from Detroit. There you will connect with the Michigan Central Road, and will probably be at Ann Arbor on the 7 P. M. train. Write me the day you start and the train you start on and I'll be at the depot. At Grand Trunk Junction keep a lookout for your watch and pocketbook, for there are a set of abominable thieves there.

"Ann Arbor is all right, as is the university. Affairs are rather dull just now owing to the fact that

a large proportion of the students have gone home to spend the holidays. Two of our law students, in order to pass away the time the other day, engaged in the luxury of a fight. The result was that one of them was badly threshed. As they were both Democrats it was a rather unfortunate affair. . . .”

Fortunately for the biographer, when Kern received his degree and returned to Howard county, his friend Morrow left Howard for Ann Arbor and the correspondence was continued for a time. In a letter dated April 4th, 1869, he gives a “short sketch of his meanderings” after leaving Ann Arbor, returning by way of Toledo and Peru, and finding “Howard county literally capped with mud.” “Nobody,” he adds, “pretends to travel with a wagon—such would be impossible. I never saw such a stretch of muddy country in all my eventful career.” But “notwithstanding the mud,” he found things “rather lively,” with many of the young women of the neighborhood calling to inspect the new attorney in their midst. “I have as yet made no definite arrangements as to practicing,” he writes. “I am thinking of going in with Milton Bell or Clark N. Pollard”—this probably being written in a spirit of fun, as the two men mentioned were prominent members of the bar. In the next sentences he adds—“If I don’t go in with them I will go into a firm with John Worth Kern, LL. B.” He was not in the best of health at the time

of his graduation, and he writes Morrow: "My health is no better than when I left. My cough doesn't get much better. I have taken a whole bottle of medicine since I have been here."

Hardly had he reached his home when his neighbors arranged for a speech from the neighborhood prodigy, and the young lawyer, having prepared it with a care becoming the importance of the occasion, went out into the woods near by, where he was practicing it with much vigor of gesticulation and expenditure of lung power when a neighborhood girl, passing the outskirts of the wood on her way to the house "with the two front doors," saw him without recognizing either the man or the occasion. Rushing breathlessly into the Kern home, she explained that she had encountered "a crazy man" in the woods making all sorts of unearthly noises.

"Oh, he's not crazy," said Sally Kern smiling, "that's only John practicing his speech."

A little later the shingle of "John W. Kern—Attorney at Law" was hung at Kokomo.

CHAPTER II

KOKOMO DAYS—LAWYER AND CITIZEN

I

AS we have seen it was Kern's intention at one time to begin the practice of his profession in Iowa—a plan that was abandoned when the state went overwhelmingly for the "radical program." Before leaving Ann Arbor we have noted his plan to establish an office at Tipton, Indiana. The process of reasoning which soon eliminated Tipton from consideration and led to his opening an office in the county seat of his native county about the first of May, 1869, when he fell seven months short of his twentieth birthday, is set forth in the following letter to Morrow, then at Ann Arbor:

"Since I came home I have done nothing and yet have been awfully busy too. I was at Tipton one day last week looking for a location. That is, I went there for the purpose of looking around. As soon as I got off the train and cast a glance up the principal street I persuaded myself that Tipton was no place for an LL. B. A stump puller or a mud dauber might do an extensive business there. I will open a law office in Kokomo in about ten days. My office will be in the Nixon block. I will go in partnership with John W. Kern, a young man of promise.

"Our folks are all going on a visit to the Old Dominion to be gone all summer. They will start in about a week from to-morrow, and I will be left a disconsolate orphan. In selecting Kokomo as a place wherein to practice I pondered long and well over the matter, and it was only from words of encouragement from a number of the substantial men of the county that I determined. I don't expect to do much at first, but by a close attention to my business I expect in a few years to make my expenses. The people in this part of the country are all lively as crickets. . . . I only got my books day before yesterday—just two weeks on the road. . . . The work on the new court house has commenced again. It will be a magnificent edifice. . . ."

The office was opened about the first of May with a complete new set of the Indiana Reports which his father had presented him with. "I still remember how his eyes sparkled," writes Morrow, "when he told me that his father intended to give him a complete set of the reports." Two months later he had less modest notions of his possibilities in his profession. He had participated in several cases and gained confidence, both in his ability to get business and his capacity to handle it. In a letter to Morrow, written early in June, he discloses the budding of social aspirations and for the first time mentions the girl who was soon to become his wife:

"We are now having delightful weather, good roads, and lots of fun. The society in Kokomo is much better than it used to be, and is such that a man who mingles with it much inevitably enjoys himself. I have renewed my old acquaintance with the ladies, and yesterday two of them, Misses Whenett and Hazard, came up and spent an hour in sweet communion with me in my office. I have an invitation to call on both of them and will certainly avail myself thereof. Although my practice is not so lucrative as I could desire, it is much better than I anticipated when I commenced. I have helped try two cases in the circuit court, three in the mayor's court, and am doing a good business in collecting. I am at least making a very comfortable living. I find that I am somewhat deficient in the practical part of the law, but by hard study and close observation will remedy that before a great while. I am convinced that Kokomo is the best opening for a young man in the west. There is a vast amount of litigation in the county and but comparatively few lawyers. The only trouble I have here is that there is a disposition on the part of some young men in this town to make my office their headquarters. There is one of these d—d lazy hounds sitting here now—making himself more at home than I do. If he doesn't leave in fifteen minutes I will order him out. The initials of this name are X-Y-Z—too trifling to pound sand. . . . That young man I spoke of a moment ago has just taken his leave. Darn his infernal loafing carcass. He didn't receive much comfort this morning. . . ."

The reference to the disposition of young men to make his office their headquarters probably reflects an indignation he did not really feel. From the moment he opened an office in Kokomo he became the idol of the younger element, and his popularity with "the boys" was to be invaluable in establishing his leadership in politics and his popularity at the bar, but to carry with it disadvantages due to the conviviality of the town and times. It was before the days of clubs, and during the first ten years of his practice his office was made to serve as a club for the younger element, young lawyers, doctors, and others with no such fixed means of support. Here in the evening and on Sunday afternoons the clan regularly gathered to solve the problems of society, indulge in chat, and games. Always a social being, young Kern enjoyed these afternoons and evenings, and friendships were made on these occasions that remained steadfast through life.

From the moment he opened an office the young lawyer was remarkably successful. He was generally looked upon by the people of Howard county as a genius. In eloquence before a jury he surpassed the older members of the bar. And the winsome geniality of his personality extended his acquaintance and increased his popularity. He was followed about by groups of young friends and the older element not only conceded him to be rarely

gifted, but gave him every possible encouragement. The town was not so large that the proceedings of the courts were not the subjects of conversation and the lawyer, especially if young, who could make juries laugh and cry, and play pranks on court and bar, and get verdicts, became something of a hero. During the first year or two the most of his cases were tried in the justice of the peace courts, which were then far more important than they are to-day. Here the race went to the man who knew human nature, possessed an eloquent tongue, a quick resourceful mind, and plenty of assurance. Having in mind this period of his career, C. C. Shirley, at one time a member of the law firm of former United States Attorney-General Miller at Indianapolis, but previous to that a member of the Howard bar, writes:

“Instinctively I knew him then as one who had been touched with the fires of genius. I think every one who knew him at that time looked upon him as strangely gifted, although some of those who recognize his unusual gifts were inclined to poohpooh their importance. They spoke of him as the ‘boy wonder,’ the ‘infant prodigy,’ etc., and one particular characterization I heard when I was a small boy, which has stuck in my memory, I recall. Kern had just been admitted to the bar and had made an argument in a jury case which was highly praised and caused much comment among those who knew him

well and naturally were proud of his quick success as a lawyer. I don't know that the case itself was of much importance, but it was of a character to furnish a good vehicle. It was a neighborhood sensation. The particular note of derogation, I recall, was the remark of a village wiseacre to this effect, 'Oh, John Kern is just like a wasp—bigger when he was born than he will ever be again.' Rather a fine tribute, after all, although unintentional and unconscious, since it shows that even then skeptics had observed that he was not at all like a boy of twenty—possibly twenty-one, but not more. As for myself, I looked upon him as already a great man and never missed a chance to hear him speak, either on public occasions like old settlers' meetings, at which he was often heard, or in neighborhood lawsuits before justices of the peace, which was the only forum I then had a chance to visit.

"The interests there involved now seem pitifully trivial, but they often meant almost life and death to the litigants—the family cow—or the chattel mortgaged cook stove, or the month's wages. And on just such occasions as these, when humor or pathos were so closely blended, Kern, at that time, was facile princeps among the lawyers of the county, though he was barely of age. I know the impression he made on me was that his client was always right and much wronged by the highly reprehensible persons on the other side. . . . I learned that his wonderful skill in marshaling the facts and circumstances, added to his real genius for pathos, ridicule and invective, when these weapons could be used to advantage, were

often quite as much to be feared as the merits of his case. He knew when to employ these weapons and never made the mistake so frequently observed of resorting to either unless there was something in the case which made it certain he would 'get away with it.' He avoided the obvious resort to such expedients—indeed he never seemed to employ them at all. This is what made him so effective when he did use them."

That with all his precocity he was still essentially a boy during the early days of his practice is illustrated in a story affecting Rawson Vaile, a leader of the bar, who had been editor of the *Indianapolis Journal* before the civil war. Mr. Vaile was a polished gentleman, an Amherst graduate, something of an exotic for the time and place, who bore himself with great dignity, dressed immaculately, and always wore a silk hat. One day in court—the court room crowded with Kern's young followers—while the young lawyer was in the midst of an argument to the court, he observed on the table before him the silk tile of the opposing attorney. Simulating much excitement, he brought his clenched fist down upon Vaile's cherished hat with such force as to mash it completely. The young men in the court room who knew that it was not accidental, but a carefully planned diversion for their benefit, roared their approval, and so great was the indignation of the court

that but for the splendid acting of Kern in assuring the court of the accidental nature of the incident he would have been fined for contempt.

In the little cases in the squire's courts he fought as stubbornly as he ever did in later life in the federal courts of the country. One case—a suit in replevin over a red shawl—is still remembered because the tenacity of the boy lawyer cost the defendant \$700 before the case was closed. Before he had been in practice a year, if he was not the ablest lawyer at the Howard bar, he was easily, among all the lawyers, the idol of the multitude.

II

During the first year or two at the bar Kern was not giving his attention wholly to the practice of his profession. In less than a year he had taken his position among the political leaders of the community, and from that time on during his fifteen years in Kokomo his political and professional careers were so interwoven, and he distinguished himself to such a degree in both, that I shall, for the sake of continuity, treat of his political activities in a separate chapter. Even politics and the law did not consume all his time. As we have seen in his letters to Morrow, he had taken a keen interest in the "feminines" from the moment of his arrival in Kokomo. This interest soon centered on Anna Hazzard, daughter of

a well-to-do business man of the community. The nature of his wooing is indicated in an incident still remembered. On the occasion of a Sunday school picnic given by the Baptist church of his native village, he drove with Miss Hazzard to Alto, and finding a big cake offered for sale to the highest bidder, he determined that the prize should go to his partner of the evening. The contest was a lively one, but the young lawyer met all competitors with a raise, and the result was that he secured the cake for the neat sum of \$30.

It was soon after this that he announced in a letter to Morrow that he had bought "the Stewart house" on Main street for something over \$1,600, his father going security, and with some show of pride described it as "one of the prettiest pieces of property in town." "This," he adds, "may look to you like business. Well, it does." And in a letter to Morrow October 18, 1870, he concludes: "Give my regards to Swartz and Stringer. Tell them that on the 10th of November all that is mortal of J. W. K. is to pass away, as that is the day the event takes place which tears him from the realms of single blessedness."

The Kokomo Tribune, in announcing the marriage, which took place at the bride's home, said:

"Notwithstanding the ultra Democracy of John, there is a whole-souled manner, a generous style and an earnestness about him that has compelled admira-

tion. Besides, Mr. Kern has more than average ability. If he shall continue to be a student, as we know he has been for several years, he will gain eminence.

"What everybody says must be true. We have never heard a single person speak of the bride except in the highest terms of praise. She is intelligent, domestic in her habits and preferences and very good.

"Why should not the life of such a couple be blessed and blest? They have the very best wishes of every acquaintance."

A rather unusual announcement, but very gracious considering that for three months before the same paper had covered its editorial page with vicious attacks on young Kern the politician.

III

After the election of 1870 and his marriage the young lawyer went forward by leaps and bounds in his profession. In the fall of 1870, before he had reached his majority, he was employed as special prosecutor in a sensational murder case involving a prominent family of Kokomo. Before this Kokomo had suspected that he was a brilliant criminal lawyer. Afterward it knew it. For in this case the youth of less than twenty-one found himself pitted against two of the giants of the Indiana bar, Thomas A. Hendricks, his political idol, and Major Jonathan W. Gordon, considered by many the greatest criminal lawyer and advocate who ever practiced in the

courts of the commonwealth. It is related that during the trial, which was held in an adjoining county, Kern became careless in his attendance in court, and there was a disposition to consider him out of the case. In indignant mood he sauntered into the court room just as an argument as to the admissibility of evidence was being made by both Hendricks and Gordon. Much was involved in the point and the two legal giants had carefully prepared for the battle. At the conclusion of their arguments Kern arose, without having looked into a single book, or left his seat after hearing the issue, and delivered what was considered one of the most convincing arguments heard in the case, and the court sustained him. After that he took part in all the arguments that arose, and always with brilliant success. At that time he made of the two great lawyers pitted against him life-long friends and admirers. Hendricks took him aside and with a great show of interest advised him as to his course, and it was on this occasion that the great politician made the prediction that "the time will come when that young man will be the leader of the Democratic party in Indiana."

From that time on he was engaged on one side or the other of every murder case and of most of the important criminal cases tried in Howard or the adjoining counties. He developed with remarkable rapidity into a great trial lawyer. His eloquence, his

knowledge of fundamental principles, his quick grasp of the situation, made him a dangerous opponent for the most experienced. In those days he was careless in the preparation of his cases. It was said of him that he could go into a case with one day's notice and apparently be as well prepared as though he had given six months to preparation. Judge Harness, his last partner in Kokomo, found him "a master in marshaling his facts and in getting everything out of a case there was in it—and frequently much more." He was an expert in handling witnesses, especially in cross-examination. He was dramatic, resourceful, a master of strategy. In one case where his client was accused of having stolen a pocketbook, he secured a wallet as nearly like the one in question as possible, and presenting this to the prosecuting witness pressed him for a positive identification. The witness walked into the trap and identified the substitute pocketbook positively as his own, on which Kern presented the pocketbook in question, thereby putting the prosecution to rout. In another case he was positive that the prosecuting witness was lying and he carried through a fine bit of dramatic acting with the desired result. Without a particle of previous evidence of the witness to rely upon, he theatrically opened the drawer of the desk before him and pulled out a roll of blank paper. Holding this in his hand and looking the witness in the eye he de-

manded fiercely—"Did you not on a certain occasion testify so and so in this matter?" The witness, frightened at the manner of the lawyer and suspecting that he had been trapped completely, wilted and confessed that he had testified differently before.

While capable of tricks of this nature he was not known as a "tricky lawyer" in the usual acceptance of the term. He was scrupulously ethical from the day he received his first case. This knowledge of human nature which made him a power in cross-examination made him almost irresistible before the jury in argument. Here he was the master. He ran the gamut of the emotions, passing from wit and humor to pathos, and then to satire, and then denunciation, keeping the jury in laughter or tears. Often he was able to literally ridicule a case out of court.

During the Kokomo days when he was prominent as a criminal lawyer he was at different times pitted against many of the giants of the bar. To attempt an enumeration of even the more prominent cases would be irksome. Strangely enough some of his greatest speeches in criminal cases were for the prosecution. He was of such a kindly disposition, so easily touched by suffering, and his sympathies were so readily reached that among the leading criminal lawyers of those days he seemed the least adapted to the rôle of prosecutor, and yet he probably figured

more frequently as prosecutor than any of the others. The older people of Tipton county still remember his powerful argument and remarkably forceful peroration in closing for the prosecution in the murder case of State vs. Doles in Tipton in 1882. But a more interesting case is that of State vs. Hawkins, in which he appeared as special prosecutor at Kokomo in what was probably his last great criminal case in his native county, in 1885. Young Hawkins had been attentive to a young woman who had been taken out for a drive into the country by one of his friends and insulted. On returning to town the girl hastened to Hawkins with the story and without more ado he armed himself and went in search of the friend. After a few words Hawkins drew his gun and shot his victim down in cold blood. The family of Hawkins, realizing the seriousness of the situation, employed Cooper & Harness and O'Brien & Shirley, leading local lawyers, and instructed them to engage some famous criminal lawyer from Chicago or Indianapolis. Because Senator Voorhees had been remarkably successful in murder cases involving wrongs to women, he was engaged as the leading lawyer for the defense. Such vigorous steps to free the murderer of his son led the father of the victim, who had befriended Kern in his younger days, to engage him as special prosecutor. The case attracted state-wide attention. There were circumstances in

the case differentiating it so radically from the cases of Mary Harris and Johnson that Voorhees was considerably embarrassed, but the matchless forensic orator exerted himself to the utmost. The closing arguments of Voorhees and Kern were made the same day, the older man speaking in the afternoon with his customary eloquence to a court room packed to suffocation, with great crowds packed tightly in the corridors outside and down the stairway. Kern closed at night in the presence of an equally great crowd. Never, perhaps, did he speak with greater power or eloquence. In the early part of his argument he turned his batteries of ridicule upon Voorhees in an effort to overcome the prestige of his name. So keen was this ridicule that Voorhees, hardened though he was by the blows of innumerable forensic battles, and until then, a warm friend of the younger man, squirmed uncomfortably in his seat, and turning to one of his co-counsel, asked, "Is he trying to insult me in this community?" Assured to the contrary, he settled back in his chair for a while, but, unable to stand it longer, he retired to the judge's room, where he remained during the rest of the speech. "Mr. Kern," writes A. B. Kirkpatrick, then prosecuting attorney, "was at his best and held the jury and audience spellbound as he swept everything before him by his irresistible logic and eloquence. At its conclusion, Senator Voorhees said

with a qualifying adjective that it was a shame to have a man like John Kern make the closing speech in such a case. Kern easily won the laurels over the senator."

The defendant was found guilty, and there are reasons to believe that Voorhees never forgave Kern's ridicule of him, and in time found a way to make his displeasure felt.

During his Kokomo days the bar of Howard and surrounding counties, while having its full share of backwoodsmen, was strong in a number of exceptionally able lawyers. Kern's practice extended over Howard, Tipton, Grant, Miami and Cass counties. In those days he frequently crossed swords with D. D. Pratt, Horace P. Biddle, Judge Nathaniel R. Lindsay, McDowell Van Devanter, father of the present justice of the United States Supreme Court, Col. Asbury Steele, R. T. St. John, Joseph A. Lewis, Nathan Overman, Joel F. Vaile, now the leader of the Denver bar, Dan Waugh, and of course all the leaders of the Howard bar. As a criminal lawyer he surpassed them all and held his own with the greatest in the state. "As a criminal lawyer," writes A. B. Kirkpatrick, "Kern in his prime was perhaps not excelled in Indiana. I have seen Senator Voorhees, Major Gordon, John S. Duncan, Henry N. Spaan and Major Blackburn in the trial of criminal cases and in my opinion none of them excelled Kern."

Such was his status professionally during his Kokomo days.

IV

The Kokomo of Kern's time was one of the live-wire towns of the state. He has himself described it in his address at the James Whitcomb Riley birthday dinner many years afterward, when he said: "And where did I first meet Riley? Where do you suppose I met him? Why, in Kokomo, of course! Where else could I have met him? What was he doing in Kokomo? Why did he come to Kokomo? Because the afflatus was in Kokomo in those days. The divine afflatus, the prophetic afflatus, afflatus in unbroken and original packages; some in broken and aboriginal packages."

When the sign "John W. Kern, Attorney at Law," was hung out in 1870 there were no factories as now and no artisan class. It was above the average of county seats at the time and yet they were just beginning to build streets and it was not an extraordinary sight to see wagons mired in the thoroughfares. There were no clubs, but the "poor man's club" was all too much in evidence, and the Clinton House, standing on the present site of the Frances Hotel, was a favorite gathering place for the gossips. It was a paradise for the gambler—the happy hunting grounds of the sporty element who flocked from afar, flamboyant in its cheap finery, unafraid of the law

or the authorities, plucking the innocents without let or hindrance, crowding the "poor man's clubs" with boisterous company. And just beyond this element in a sort of a mysterious haze loomed a more sinister element supposed to be engaged in transactions frowned upon by the laws of state and nation. This was the situation during the first twelve of the fifteen years of Kern's residence in the town. Then something happened that brought about a cleansing. For many years the most powerful citizen, politically, among the lower strata was a physician, who was highly skilled in his profession, and known professionally over the state. He never charged the very poor for his services and thus he ingratiated himself into their affections, and he exercised a sway over the sporty element which was long hard to analyze. Many feared him without knowing why. One day, while mayor of the city, the police were informed by a traitor in his camp, who apparently feared him, that he proposed to burn the flour mill belonging to one of his enemies, and carry a leaking sack of flour to the home of another of his enemies, feared by the doctor, with the view to getting him out of the way by way of the penitentiary on the charge of arson. The police appeared at the mill as the doctor emerged with his sack of flour, and in his attempt to escape he was shot down. The incident created a sensation. The community was divided as to his

guilt or innocence, and to this day there are some who cling to his memory as to the memory of a martyr. But the fact was developed that the prominent physician, potential politician and mayor was the head and brains of a lawless gang which had been under the observation of the federal secret service. His death scattered the gang, and with the gang the criminal element which revolved about it. The gamblers took to their heels. The new Kokomo emerged. But it was in the old Kokomo that John Kern passed his younger days.

It was in the midst of this environment that he was left alone, master of his own destiny, at the age of twenty. For almost immediately after he began the practice of his profession his father, hearkening to the call of the Old Dominion, and taking his daughter Sally with him, bought a home in Carvin's Cove, a basin seven miles from Roanoke, and so surrounded by spurs of the Blue Ridge Mountains that there is but one entrance to the cove for vehicles. Here during the remainder of his life he lived the life of a recluse with his books, dogs, poultry and cattle, going every Sunday to church to teach a Sunday school. Here in the Cove Alum church on the frequent occasions of John Kern's visits, the father listened proudly to the eloquence of the son he idolized.

But the young lawyer was always surrounded by

a multitude of friends, good, bad and indifferent. His witticisms were passed about. His practical jokes were laughed over. His popularity was extraordinary. He was eagerly welcomed in every home. A slight figure, he had temper and it was known that he would "fight at the drop of a hat," no matter how much larger and heavier his adversary.

Recognized as the orator of the community, the young lawyer was in constant demand as a speaker on all imaginable occasions, from old settlers' meetings and Sunday school picnics to mass meetings to serve some public end.

We shall now see in tracing the story of John Kern's political activities in the Kokomo days that when he paid tribute at a mass meeting to Garfield, the martyred president, he spoke as the long-recognized Democratic leader of the community.

CHAPTER III

AS DEMOCRATIC LEADER OF HOWARD, 1870-1884

I

WE have intimated in the previous chapter that while young Kern was making his reputation as an orator and a leading criminal lawyer of his section of the state he was exceedingly active in politics. Before he had attained his majority his tact, political genius, and deep-seated convictions had forced upon him the position of leadership, ungrudgingly bestowed by the common consent of veteran politicians of Howard county. Such precocity is so rare that the story of the rapidity with which he forged to the front in his twenties constitutes one of the most fascinating chapters of his history. And more important from the viewpoint of the biographer is the light this period throws upon the principles that animated him throughout his life. Many public men enter public life in youth as radicals and cool gradually to a conservative old age. Others, rarer, begin as conservatives and gradually warm to radicalism. Kern began with the same general set of principles which characterized his public character at the age of sixty-eight.

The conditions in Howard county in 1870 were not such as to justify high hopes of political preferment on the part of young men affiliated with the

Democratic party. The normal Republican majority ranged from 800 to 1,400, and, considering the population of the county at that time, this margin of advantage constituted an insurmountable barrier to Democratic aspirants for office. Nevertheless there were among the active Democrats of that day men of unusual political capacity, and several of these were destined to sit upon the bench of the judicial district and to find their fealty rewarded by election to state offices. The year that young Kern plunged into the war from which he was only to emerge almost half a century later "upon his shield" the Democratic prospects were no better than they had been since the civil war, but, owing to the growing disaffection in the Republican ranks, and the issue of "reform" then coming to the fore, the more optimistic favored an aggressive contest. In March, 1870, the Democratic County Central Committee was called for the purpose of organization and the determination of the much-mooted problem as to whether a straight Democratic ticket would be worth the ammunition. The reports of the meeting indicated that young Kern, not then of age, and one other man spoke earnestly in favor of a fight. And it was on this occasion that he was given his first official recognition by the party, of which he was to become the leader, by election to the secretaryship of the committee.

In conformity with the plan then decided upon the county convention met in August to nominate a full ticket. *The Kokomo Tribune*, an uncompromising Republican paper, in describing the convention, said that "on Saturday a hundred or more barefoots came together in this city and bunglingly went through with a convention." The proceedings of the convention indicate that young Kern was probably the center of attention, making many of the motions which directed the course of the delegates, and finally being chosen chairman of the committee on resolutions and entrusted with the formulation of the party platform. These resolutions were written largely by him, and after a discussion in which he participated were adopted much in the form in which they were submitted. While there was something of the extravagant in part of the phrasing and something of the buncombe seemingly inseparable from party platforms to this day, these resolutions are indicative of views which in a broad sense were never abandoned by the then boy chairman.

A part of these resolutions were evidently intended to meet local prejudices at the time, but in view of the absence from Howard county of any appreciable laboring, or artisan class, the prominence given their interests show that Kern's special championing of their rights in later life was not of new birth. The resolutions were adopted, and the convention di-

rected its attention to the nomination of a candidate for the legislature.

One candidate had presented himself, an old farmer, who does not appear to have appealed to the leaders as available. At any rate C. N. Pollard, then a prominent lawyer and destined to the judgeship, placed young Kern in nomination. The boy leader instantly demurred, saying that while he "loved to work for the time-honored principles of the party" he was too young, had never even voted, and therefore respectfully declined. Pollard in rejoinder insisted that the reasons given were not sufficient and ended by demanding the services of the young lawyer in the campaign. Milton Bell, a rising lawyer, followed in rejecting Kern's reasons, declaring as a reason for his nomination that he was "young, vigorous, fresh and able," and comparing him to the improved needle gun. Others followed along the same line, and, notwithstanding the vigorous protest of the one avowed candidate for the place, Kern was nominated by a vote of 39 to 8.

This remarkable action in nominating a boy not yet of age was not a mere impulse of the convention. Throughout the summer of 1870 the young lawyer had been impressing himself upon the community, both by his speeches and writings. Just before the convention met he had established a reputation as an orator, and *The Kokomo Democrat*, in its issue of

August 3, in referring to one of his speeches, had said: "We heard it. Considering the intense heat of the evening and the great disadvantage under which he spoke it was an eloquent and able effort and so regarded. The court house was crowded and the audience went away entertaining as high an opinion of the Kokomo boy as ever." And during the summer he had written articles for *The Democrat* over his initials calculated to fire the Democratic heart.

The announcement in little more than a week after the convention of the "speaking dates of John W. Kern" with the postscript that "other speakers would accompany him" bears witness to the seriousness with which he accepted the duty thrust upon him, and it was not long until *The Kokomo Tribune*, the Republican organ, found it advisable to devote much of its editorial space to attempted refutations of his arguments and to neutralizing the danger from his personal popularity with appeals for party regularity. The Republicans had nominated against him Captain Kirkpatrick, an idol of the soldiers, who were strong in Howard, and among Kern's first moves was to challenge his opponent to a series of joint debates—an invitation that was declined. It was the year of Sedan, many citizens of German extraction lived in Howard, and it is interesting in the light of the present great war to find that sentiment in Indiana was quite generally with the Prussians because of the

prevalent dislike for Louis Napoleon. Early in the campaign Kern spoke at a German celebration and *The Tribune*, evidently concerned over the possible effect of his speech, hastened to say :

“John W. Kern in his speech at the German meeting on Monday night condemned in unmeasured terms the man or party that sympathized with Louis Napoleon. His sympathies were with the Prussians all the time. On that question John is right, but many of his party are against him.”

That the youth with all his enthusiasm possessed an abundance of practical political judgment may be assumed from the fact that he took cognizance of the overwhelming Republican majority in refusing to make his fight along strictly party lines, refrained from mentioning the parties by name, and devoted himself exclusively to the reform issue. This policy from which he refused to be diverted by the gray beards of the Republican party soon got on the nerves of the Republican organ, which was moved to say :

“John W. Kern is not a party man now. Oh, no! But he was nominated by a convention called by the chairman of the Democratic county committee. He will vote for Henderson for congress, and if sent to the legislature for Voorhees for senator. But he ignores party! Such thin sophistry will make a fool of no one.”

And again we find the same fearsome note struck:

"Kern doesn't want the voters of the county to allow Wildman, Jay, or Phillips to dictate how they shall vote, but he wants to do the dictating. John has put himself in the belly of the Trojan horse. As soon as he shall get himself inside the walls of the city he will turn himself loose."

Meanwhile the editor of *The Tribune* and Kirkpatrick seemed to feel in need of all possible help and the Republican organ contained numerous attacks on the boy candidate under the caption "Communicated." In one of these the writer described Kern as "a young lawyer with a reputation for two things—making smart speeches and smoking cigars"—a reputation he lived up to throughout his life.

He closed the campaign at Alto to an audience of his boyhood friends, and if *The Tribune* is to be credited followed this later in the night on the streets of Kokomo with "a bitter partisan speech."

The election resulted in his defeat by so small a margin that *The Tribune* editorially confessed its chagrin. It is to be presumed that he carried out his wager with Tony Jay, a Kokomo packer, and blacked that worthy's boots on the street in front of the Clinton House—the leading hostelry of the town.

The campaign had firmly established his reputation as a very young man with a very old and level head, possessed of eloquence, tact, political judg-

ment, and all the elements of leadership. And this before he was of age! Living as he was to do throughout his life in Republican communities he was not to attain the goal of his ambition until late in life, but had he lived in England and been thus equipped he would probably have entered parliament like Fox and Pitt as a mere boy and gone far.

II

In the year 1870 the political services of the boy leader were not confined to preparing resolutions and making stirring speeches. He was the most potent factor in the establishment of a Democratic newspaper in Kokomo. The story of the origin of *The Radical Democrat*, which was to change its name later to *The Kokomo Despatch* and as such to take high rank among the party papers of the state, is intimately interwoven with the political history of Kern. In the spring of that year W. J. Turpin, anxious to establish a Democratic paper and in search of a location, was advised to turn his attention to Kokomo, and "for further information to write J. W. Kern." He did write to the boy leader and the encouragement from Kern impelled him to make a personal investigation, and he went to Kokomo. A youth of precisely Kern's age, twenty, and without a penny of capital, his project could have held forth little promise of a successful issue to one with

less than Kern's bubbling buoyancy and audacity. He has told the story of his conference with young Kern in some reminiscences published in later years.

"Mr. Kern was not yet one and twenty. He was literally slopping over with soul and life. Recent college triumphs had inspired him with a hope and confidence for the future. I recognized in him at once the uncaged Nubian lion of the community. Upon one point we were agreed—the capital was of but secondary and slight importance to the furtherance of our object. We closed, and from that moment began a fervent and unabating friendship."

On the following day Kern accompanied Turpin on a canvass of the town for subscriptions, heading the list himself, and during the day procuring more than a hundred subscriptions. The Democrats were willing to take a risk and the Republicans could see no possible danger in the competition. The embryo editor thereupon plunged into the country townships with the view to increasing his circulation list, leaving with Kern the task of collecting enough real money to make a payment on an office. At length arrangements were made whereby each issue could be put out at a cost of \$25, and a Democrat was persuaded to furnish office rent free. Such was the beginning of *The Kokomo Despatch*.

This, however, did not end Kern's connection with the paper, for he appears by Turpin's admission to

have been a copious contributor to the editorial columns, and throughout the remainder of his residence in Kokomo he was charged at various times with plying his pen in the interest of the party and the paper. When the editor sold the paper in the late summer of the year of its birth to Doctor Henderson he acknowledged his indebtedness to Kern's pen in the following tribute:

"John W. Kern has contributed much to the success of this enterprise. To him I shall ever feel under obligations, and I am also proud that the party in this county numbers among its young men one of so much earnestness and purity of purpose who promises to be truly a Defender of the Faith."

Thus in his twentieth year he had established the reputation of being the most effective Democratic orator in the county, had made the most spectacular and brilliant campaign made by a Democrat in Howard in many years, given the Republicans their first real scare in a generation, won recognition as a leader of tact and judgment, and made possible the publication of a Democratic party organ in that wilderness of radical Republicanism.

III

In the spring of 1871 Kern's growing popularity was attested by his election by the city council, composed of five Republicans and three Democrats, as

city attorney—a position to which he was to be repeatedly re-elected by successive councils and without regard to the political complexion of that body. Although a strong partisan his winning personality exerted an influence beyond the party wall, and that generosity and geniality toward his political opponents which was to lead Senator Beveridge years later to pronounce him “the Bayard of the Hoosier Democracy” was even then pronounced.

In the Democratic county convention of that year he appears to have been a dominating factor. It was the year when thousands of old-fashioned Democrats found in party regularity a bitter hardship because of the nomination of Horace Greeley for the presidency. Even Voorhees in a speech acquiescing in the nomination acknowledged the bitterness of the pill. This led to the appearance of a new Kokomo newspaper called *The Liberal*, with Kern's name at the head of the editorial columns, and described by *The Kokomo Tribune* as “a lively little paper full of Democracy, Greeleyism, Hendrickism and what-you-call-it.” It does not appear from the newspapers of that year that he participated very actively in the speaking campaign, but he was evidently in the midst of things from the occasional references of the Republican paper to his activities. Thus in describing a Democratic rally *The Tribune* pictures him on horseback “riding along the procession urging cheers

for Hendricks," the nominee for governor; and at another Democratic meeting he is described as vehemently urging the unresponsive crowd to give "three cheers for Greeley" and to "go up-stairs and hear C. N. Pollard."

By 1874 we find his position as the Democratic leader in Howard assured and as the sole representative of the county he was attending caucuses of the State Committee at Indianapolis. In the county convention of that year he was the general in command. The papers reported that out of the thirty-two motions made all were made by Kern but three. It had by this time come to be the custom to top off all county conventions in Howard with a ringing party exhortation from the boy leader, and in '74 he was still harping on the necessity for "reform," though now with special reference to the conditions in the court house. "Kern was then called for and spoke on the subject of reform," wrote the editor of *The Tribune*, "If he had lived in the days of the Reformation he would have been the head and front of that movement. As a reformer Kern is a success." It was in this campaign that he pounded the Republican machine of Kokomo with such vigor as to cause evident distress. The county officials had been obsessed with a mania for supplying their offices not only with the necessities but with all the luxuries obtainable. He brought all his withering power of

ridicule to bear upon arm rests, paper weights, dust-ers, fancy stationery and numerous other articles deemed non-essential by the average Howard county farmer of that day, but his greatest scorn was reserved for the "McGill machine." This was a new invention for clamping papers together, and it was Kern's policy in addressing an audience in the country to dwell at great length and in awesome fashion upon the "McGill machine" until his farmer audience had conjured up a picture of something resembling in general outline a threshing machine, and then to spring the tiny machine upon them with the rather fancy price paid for it by the commissioners. He succeeded in making the "McGill machine" an issue in the campaign, the bone of hot contention, and every one who was not indignant over the purchase was laughing about it.

IV

The "paramount issue" in the campaign of 1876 was reform. It swept the country like a tidal wave. It made logical and inevitable the nomination of Samuel J. Tilden, the great reform governor of New York for the presidency by the Democrats. It played havoc with the ambitions of several worthy men in Indiana who had been guilty of petty extravagances in office but whose personal probity was no protection against the hysteria of the hour which pilloried

them as unworthy of public favor and erased their names from the party tickets. It was the year that the Republicans thought they were disgracing Godlove S. Orth, as honorable a man as ever lived, by removing him from the head of their ticket when they were only shaming themselves; and the Democrats assumed that they were advertising their virtue by driving from their judicial ticket such honorable men and able jurists as Judges Buskirk, Downey and Pettit, when they were only exposing their weakness. There was, in those days, ample justification for the cry of reform, and we have seen that before he had attained his majority Mr. Kern had been strongly impressed with the necessity of it, but, like many good movements, it went to extremes, and we shall see that the young Kokomo leader shared in this weakness with many others.

We first find him active in '76 in the county convention of Howard, where he was the dominating figure, and delivered what appears to have been a long and forceful speech on his favorite topic of reform. *The Tribune* merely quoted one sentence from this speech to the effect that "the Democracy disowns Ben Hill," with the comment that both Hill and Kern would be at the St. Louis convention, "Hill as a big whale and Kern as a tadpole." The spicy editor was also grateful for the length of the speech, which "gave the reporters plenty of time to do real

work on really important matters;" and another comment on the convention was to the effect that "the following persons took prominent part in the convention: John W. Kern, K. W. Yern, K. J. Wern, J. Kern Worth, etc." The same year Kern was recognized by the state Democracy by his selection for the secretaryship of the state convention at Indianapolis. It was a convention characterized by great enthusiasm. Party leaders addressed the throngs from the balconies of hotels, and *The Indianapolis Journal*, in describing this manifestation of earnestness and enthusiasm, said that the party leaders spoke everywhere "from Voorhees, who spoke from the balcony of the Grand all the way down to one Kern of Kokomo, who was found haranguing a group of hack drivers from a soap box on Indiana avenue." No better evidence of the partisan bitterness of that historic year could be asked than the fact that *The Kokomo Tribune* described the proceedings under the headline—"Hoodlums."

It was a little after the state convention that the young leader from Howard attracted state-wide attention by the ferocity of his attack upon Judge Worden of the supreme court in the district convention at Muncie. Few abler men have ever sat upon the bench, and none of greater personal or official probity, but the members of the supreme court had been guilty of the unpardonable extravagance of having

purchased stationery and some of the conveniences for their offices and one by one as they appeared for renomination they were retired until Worden made his successful fight in the Fort Wayne district. Many years afterward, a year before his nomination for the vice-presidency, and in an address before the Bar Association on "Great Indiana Lawyers," Mr. Kern referred to the incident as an extravaganza of his youth. His own description is the best one for the purpose here:

"The spirit of reform was strong upon me then. That was in '76. I attended the convention of my district, which was held in Muncie. The county of Howard was then in the Fort Wayne district. I went over there determined to do what I could to purge the Democratic ticket of those unregenerate men who had brought disgrace upon the fair name of the party of Jefferson and Jackson. We went there, and the question as to whether or not Judge Worden should be removed was presented on a motion to adjourn. Allen county (the home of Worden) was there in force. About 200 shouters were there. They knew more about politics than I did at that early day, and the discussion was heated. I waited until Judge Worden's champions had let loose their thunder, and then I proceeded to let mine loose. It did not occur to me that Judge Worden might be there, but I made a vindictive speech, because, as I say, the spirit of reform was strong upon me. I denounced

the extravagance and profligacy of those men who had betrayed their trust in the bitterest and most vindictive terms. I had exhausted my vocabulary in my effort to villify those men who I thought had brought disgrace upon the party. And when I sat down a gentleman who was seated a little way in my rear tapped me on the shoulder. I looked around, and Judge Worden said to me, 'Young man, I think I must form your acquaintance.' "He did not change my vote, however, but when the vote was taken, it was so overwhelmingly in favor of Judge Worden that I finally compromised by moving to make it unanimous. Afterward I came to know Judge Worden better, and he was really a great lawyer."

Attached though he was to "reform," it appears that he was not enamored of the candidacy of Tilden, and before the St. Louis convention, in the ardor of his opposition, which probably was born of his devotion to Hendricks rather than to any real objections to the New York governor, he made the statement that he would not vote for Tilden if nominated. The seriousness of the threat was evident in the comment of *The Kokomo Tribune* immediately after the convention :

"John W. Kern declared upon his honor before the St. Louis convention that he would not vote for Tilden if nominated. Now he authorizes us to say that he is a liar and will vote for him. Of course."

As a matter of fact he was more active than ever upon the stump, not only in his own section of the state, but in distant parts, and the effectiveness of his speeches in Howard may be judged from the unrestrained fury with which *The Tribune* assailed him in a personal way. It is doubtful if more bitter personal attacks have ever been made upon any politician anywhere or at any time, but it does not appear that Kern took any notice of them. The fact that the opposition paper referred to him in this campaign as "the Democratic party of Howard county" may throw some light upon the motives for the attack. Where it had previously softened its political asperities with scarcely veiled personal admiration, it now spoke of him habitually as "this fellow Kern."

Two years later, in 1878, so vicious had some of the Republican leaders become against him that the scurrilous story was circulated that at a Democratic meeting in Anderson he had "thanked God for the death of Oliver P. Morton." This was too brutal in its falsity for *The Kokomo Tribune*, which made an investigation and denial with the statement that "Kern is about as mean a Democrat as anybody . . . but this article is intended to give the devil his due." It appears that in 1880 he was not a member of any committee or a delegate to any convention, but later in the campaign he was drafted to run for prosecut-

ing attorney, and again he ran several hundred ahead of his ticket without winning.

In the county convention of 1882 we find him reviewing the issues as he had done reguarly for twelve years. His speech this year smacked strongly of the position he so prominently took in later years regarding corruption in elections. Reporting the speech *The Kokomo Despatch* said:

“He bore down heavily on the use of money at the polls and predicted that the time would come when every candidate who uses money to buy his nomination or election will be repudiated and spewed out by the people.”

This practically ends his political career as a citizen of Kokomo, for the next campaign was to find him a candidate on the state ticket, and upon his election he changed his residence to Indianapolis. From that time, however, until his death, thirty-three years later, the Democracy of Howard county claimed him as its own, and in campaign after campaign he was called upon until the last one in which he ever participated to discuss the issues in Kokomo.

Many stories are still told to illustrate the impression made by the Kern of this period upon the voters of Howard county. One of these relates to the supreme confidence of a Quaker idolater of his living in the Quaker stronghold of New London, where

Democrats were a novelty. One cold election morning this venerable Democrat hobbled laboriously to the polls to be confronted by an old character of the village by the name of Uncle Jimmy Arnett, who was noted for the uncompromising bitterness of his Republicanism with the question:

"How art thou this morning?"

"My rheumatics is very bad. I could hardly get here."

"Thou must be very old. How does't thou intend to vote?"

"I am past eighty, but have always voted the Democratic ticket since I first voted for Andy Jackson."

"Thou art old and hath but a brief time on earth and should make thy calling and election sure. Thou had'st better vote the Republican ticket."

"I don't know that the way a man votes has much to do with his future spiritually," was the indignant reply.

"But does't thou not know that the Good Book says that 'no Democrat can enter the kingdom of heaven?' "

"Well, it seems to me that the Bible does say something like that."

"Well, thou had'st but a short time and if the Good Book is true thou takest an awful risk. Thou had'st better vote the Republican ticket."

"No, I will not. In fact, if John Kern was here he could explain all that away."

Stories of this general nature taken from his Kokomo days might be multiplied, for Kern stories have been plentiful in Howard for half a century. His popularity never waned.

CHAPTER IV

REPORTER OF THE SUPREME COURT—1884-1889

I

AT the age of thirty-seven Kern took a survey of his life and an inventory of his resources and found himself dissatisfied with the result. He had a local reputation as a young man of unusual promise and ability as a lawyer, was extraordinarily popular among his Howard county neighbors, and was known as a forceful and eloquent speaker among the Democratic leaders of the state. But his worldly stores were not in keeping with his ability, and he faced the fact that he had not properly realized on his capacity. Thus it was that in 1884 he decided to be a candidate for a state office. Actuated partly by the fact that it was in the line of his profession and partly because it was at that time a highly remunerative office he concluded to be a candidate for the nomination for reporter of the supreme court. Already well and favorably known in his section of the state and among the politicians from every section his availability was impressed upon the democracy of every community through the publication in local papers of editorials "made in Kokomo" in the office of *The Kokomo Despatch*. This publicity factory was under the management of his friend, Oscar

Henderson, afterward auditor of state. And it did effective work.

It is probable that no Democratic convention in the history of Indiana has ever been so distinguished in the personnel of its participants as was that which convened in English's Opera House in Indianapolis in the closing days of June, 1884. Although a Democratic president had not crossed the threshold of the White House since Buchanan, the party in Indiana had never lost its courage or its militancy, and it had never been so spirited as during the summer of the year of its first national triumph in almost a quarter of a century. The national convention had not yet been held and while the reform governor of New York was being vigorously pushed for the presidential nomination it was by no means certain that he would be nominated. At any rate it did not enter into the plans of the Indiana democracy, which determined to press the claims of one of her own most distinguished statesmen, Joseph E. McDonald, formerly a member of the United States senate. While not so sagacious a politician and party leader as Hendricks nor such a brilliant, dashing, picturesque figure on the firing line as Voorhees, he was, in many respects, the intellectual superior of both. He had something of the dignity, solidity and majesty with which popular imagination clothes the Roman senator of antiquity.

Thus when Senator McDonald appeared upon the platform of the English Opera House that June morning in 1884 to call the convention to order he was hailed as the prospective standard bearer of the democracy in the national campaign. He presented to the convention, as its chairman, Senator Daniel W. Voorhees, whose hold upon the affections of the rank and file had constantly strengthened during his twenty-six years of public life, and whose genius and eloquence in the presentation of political issues has never been equaled in the state. After stirring the delegates to a high pitch of enthusiasm in his "keynote" speech, he introduced the chairman of the committee on Resolutions, William H. English, who only four years before had been the party's nominee for the vice-presidency on the ticket with Hancock.

The only contests in the convention were over the nominations for governor and reporter of the supreme court, and the gubernatorial contest was between two of the greatest figures that ever led the democracy of the Hoosier state, Isaac P. Gray, afterward Indiana's choice for the presidency, who died while ambassador to Mexico, and David Turpie, who had already served in the United States senate and was to return to that body a little later. While Turpie was much the abler man, a statesman of high order, he was not the equal of the astute

Gray as a politician, and the latter was easily nominated on the first ballot.

McDonald, Voorhees, English, Gray and Turpie—all prominent participants in one state convention, the only absent leader of the first magnitude was Hendricks, who was to be nominated for the vice-presidency with Cleveland in less than a month. It was in such a convention that John W. Kern made his initial bow to the state democracy.

Seldom has any party put forth a stronger ticket than that on which Kern was nominated. Gray, one of the best campaigners in the state, was nominated for governor; Captain W. R. Myers, nominated for secretary of state, continued for a quarter of a century one of the most powerful figures on the stump; John J. Cooper, nominated for treasurer, was a business man of high character whose name is still conjured with; Francis T. Hord, the nominee for attorney-general, was one of the strong lawyers of the state; and James H. Rice, popularly known to this day, though dead for many years, as "Jim" Rice, was one of the cleverest politicians and most delightful personalities that ever moved across the political stage.

And this convention, notable in every way, was able to dispose of its business and adjourn in three hours and a half, having met at 10 A. M. and adjourned at 1:30 P. M.

II

The campaign of 1884, in which Kern first appeared on the platform as a party leader, and the two following contests during which he was in office, were among the most exciting and picturesque in the history of state politics. It was the day of immense meetings, of torchlight processions when party papers quarreled over the number of torches carried in parades, and over the number of men who rode on horseback—a day of joint debates, and bitter assaults. And it was the day of real giants. Hendricks in '84 was to make his last appearance. Voorhees was sweeping over the state leaving behind a frenzy of enthusiasm, McDonald was speaking the more sober language of statesmanship to great assemblies, Turpie was discoursing textbooks on political science from which less erudite politicians were to learn their lessons. Gray was meeting Calkins in joint debates from which the amateur debaters of the country stores, the blacksmith shops and the street corners were to get their cue; John E. Lamb, just out of his twenties and known from river to lake as “the blue-eyed boy of destiny,” was setting the woods on fire by driving his opponents in congressional races from the stump; Benjamin F. Shively, still in his twenties, was duplicating the trick in the South Bend district; and a young and exceedingly popular politician was

just beginning to attract attention as a party manager in Marion county—Tom Taggart.

From the beginning of the campaign Kern was one of the most active and effective figures on the stump, as is disclosed by a consultation of the files of *The Indianapolis Sentinel*. This indicates that he confined his speeches largely to the tariff question and spoke usually for two hours. In the campaign of '84 we find him speaking to "a large and enthusiastic audience for two hours" at Bourbon; addressing "5,000 people on Michigan street," in Michigan City, where his speech was "invariably considered to have been the ablest delivered in the present campaign." Here, too, he was given "a grand ovation" and reviewed "the largest procession of the campaign with over 1,000 torches in line." At Dekalb he spoke to "a bigger meeting than Voorhees had in the county" and was given "one of the grand ovations of the season." The correspondent at Dekalb in his enthusiasm wrote: "Too much praise can not be given Mr. Kern for the eloquent, logical and convincing manner in which he handles the subjects at issue. He is making one of our best political orators, and in time will have more than a state reputation." *The Sentinel's* correspondent at Hagerstown assures us that "his speech was the most effective delivered here during the campaign," that he "discussed the tariff in a masterly manner," and that "his social

manner won for him a host of friends irrespective of party."

It is evident that he made a fine impression in the campaign of 1884 from the nature of the assignments that were given him in the next campaign. He had evidently become a favorite on the stump. The columns of *The Indianapolis Sentinel* for this campaign indicate that after the great leaders of the time, Voorhees, Gray, Turpie and McDonald, he was a favorite with partisan audiences. Thus in the report of his speech at Logansport this year he is referred to as "John the Eloquent;" the report from his Greenfield meeting referred to him as "one of Indiana's finest orators" and to the "easy and graceful way he showed up General Harrison;" the Rushville correspondent wrote that "the name of John W. Kern was sufficient to insure a full house" and "the impression left behind is highly complimentary to Mr. Kern." Something of the militant nature of his partisanship during this period may be gathered from an incident connected with his meeting at Connersville. Finding that he was dated to speak the same night that Colonel Charles L. Holstein was to discuss the issues from the Republican point of view, he immediately challenged the colonel to meet him on the same platform in a joint discussion—an invitation that was not considered attractive. Kern then spoke at his own meeting and the report has it that "his fiery review

of the Republican protective tariff robbery aroused great enthusiasm." But the most laudatory account of any of his meetings in this campaign was sent out, naturally enough, from Kokomo, in which he was described as "the most eloquent orator of his years in Indiana." It then went on to describe his speech—"The young man eloquent was in splendid form and his speech was admitted on all sides to have been the ablest effort on either side during the present campaign. . . . For one and a half hours he poured hot shot into the rotten hull of the enemies' craft. Old Democrats declare they have never heard a more electrical speech in their lives. Put the Howard county democracy down solid for Kern for governor bye and bye."

If any further evidence were necessary to establish the fact that during the time he was reporter of the supreme court he was looked upon in many quarters as the future leader of the party, two cards that appeared in *The Indianapolis Sentinel* at the time would surely suffice. These cards are important to our purpose in establishing Kern's status between 1885 and 1889. An "Indianapolis attorney" wrote:

"If the Democrats intend to push young men to the front for the governorship and party leadership, what is the matter with John W. Kern, reporter of the supreme court? He is the man whom the late Vice-President Hendricks once referred to as 'one

of the rising Democratic leaders of Indiana.' At the last election he received a larger popular vote than any man on the state ticket except Judge Mitchell, who had the additional support of the Greenbackers, and he even got a larger majority than the latter. Then there is no man in the state who comes nearer being the political idol of the young democracy, and I know of hundreds of young Republicans who would support him for any position to which he might aspire. No one can say that John Kern can't make a speech; there is not a public talker in the state who can arouse the 'boys' in a speech more completely than he; and then he has brains enough to fill any position; is shrewd enough for a manager, and no one has more personal friends."

The following day another card appeared from "An Old-Style Democrat."

"Your talk from an Indianapolis attorney made me a little zealous. While it is true that 'John W. Kern is the idol of the young democracy of the state,' he is no less a favorite of us old Democrats. He is young, able and progressive, just such a man as we need. John W. Kern is a born leader. To be sure he is young, but he has got a mighty old head on him, and it will be seen that he don't need much pushing to get to the front."

I am indebted to Dr. E. E. Quivey of Fort Wayne for some interesting recollections of the Kern of the eighties. In the campaign of 1884 he was a member

of a Democratic quartette which was sent over the state with various orators, and for three weeks the quartette accompanied Kern. Any one knowing him in the latter years of his life will find in these reminiscences a striking likeness to the man they knew. His charm of manner, courtesy, thoughtfulness, simplicity and democracy of bearing are prominently featured in Doctor Quivey's recollections:

"At this time Mr. Kern was a comparatively young man and not widely known in Indiana outside the confines of his own district. He was very slender and in the long frock coat of the period seemed much taller than when I saw him years afterward. He had an abundance of hair which was almost black and which he wore rather long, but always neatly trimmed about the edges. His face was rather pale and already lines were graven on his forehead and about the eyes, which, together with heavy eyebrows, gave an expression of austerity which wholly belied his nature. Although an indefatigable worker he was not a rugged man, and was therefore very careful of his physical welfare, using every precaution to forestall some seemingly ever-impending illness. While I am sure that he had many hours of physical discomfort, he never even intimated that he was not in the best of health.

"Wherever he appeared he made a profound impression by his fluent speech and the compelling force of his logic. He seldom embellished his thoughts with figurative language, and his speeches

were entirely devoid of verbosity; his power seemed to lie in the earnest, lucid simplicity of his appeal. He never sought to please the fancy of his auditors by lofty flights of oratory, nor did he indulge in any of the tricks that crafty orators employ for applause. Indeed applause seemed more disconcerting than pleasing to him.

"He was by far the most approachable public man we had encountered. The distant, awe-inspiring characteristics of some of the other speakers were wholly foreign to his nature.

"Mr. Kern's humanity was made evident on several occasions, but the following incident will suffice to show that he possessed this ennobling quality to a very marked degree. It was at Monticello, if my memory serves me rightly, that one of the boys had an acute attack of indigestion and he was violently sick for a few hours. Mr. Kern did not know it until it was time to leave for the meeting; and when told that Carlston was ill, disappointment and alarm were expressed on his face as he said, 'Where is he? Take me to him.' He was shown to Carlston's room, which was indeed a cheerless one, and after a quick survey of the surroundings he said, 'This won't do; we can not leave him here.' And he insisted that he be transferred to a warm and cheerful room, that a physician be summoned at once, and that some one be secured to stay with him during our absence. Nor would he go to the meeting, despite the impatient entreaties of the committee to 'hurry up,' until every detail for Carlston's comfort had been completed.

"An amusing incident happened on the day fol-

lowing which revealed a phase of Mr. Kern's character not often brought to the surface. Under no consideration would he deliberately offer offense to any one, and he was inclined to let personal incivilities go unrebuked and apparently unnoticed. Yet when goaded to retaliation he was equal to any emergency. It seems that some of the Republican papers were claiming that William H. Calkins had challenged Senator Voorhees to meet him in a series of joint debates and that Voorhees would not respond to the challenge. During Kern's speech, I think at Crown Point, a man in the audience kept interrupting him with inquiries as to why Senator Voorhees refused to meet Calkins in joint debate. At first no attention was paid to the interruptions, but the man was so persistent that finally Mr. Kern stopped, pointed his finger at the disturber and said, 'I am surprised than ony one in Indiana has the hardihood to ask such a question. Sir, it is evident that you do not know Senator Voorhees and Mr. Calkins. Why, my friend, you could no more drag William H. Calkins into a discussion with Senator Voorhees than you could lasso a wild goose a mile high.'

"One day after Mr. Kern had spoken at an afternoon meeting we drove to another town some twelve or fifteen miles distant, where he was scheduled to speak at night. Upon our arrival he went directly to the hotel to arrange for accommodations for the night. The office, which was dingy and cheerless, offered anything but encouraging prospects for the night. It was a typical country town hotel of the period with three or four of the proverbial loafing

cronies of the landlord in evidence. When Mr. Kern registered the landlord looked at the name over his spectacles, and then at Mr. Kern, and no doubt hoping to create a laugh at Kern's expense, said, 'So you're the feller what's goin' to make a Democratic speech here to-night. Well, you fellers may be Democrats, but I tell ye right now yer stoppin' at a Republican hotel.' Kern in a droll manner that was ridiculously funny replied, 'I suspected as much; the Republican hostelrys this fall are very gloomy places.'

"It became our custom before going to bed to gather in Kern's room and spend an hour or two in smoking, reviewing the events of the day, and singing, and those preslumber occasions I shall ever hold as cherished memories. They were indeed pleasant hours, and I am sure Mr. Kern enjoyed them as much as did we boys, for the gatherings were invariably held at his suggestion. He was fond of sentimental ballads and simple melodies, and I recall two songs which he often asked us to sing, and to which he always listened with profound attention. Of one of these songs I can recall but one verse and the chorus:

"I am longing so sadly, I'm longing
For the days that have vanished and fled,
For the flowers that around us were blooming
That, alas, are all withered and dead.
Tints that of all the rarest
Fade as upon them we gaze
And the hours that are brightest and fairest
Soon are hid with the lost yesterdays.

Flitting, flitting away,
All that we cherished most dear.
There is nothing on earth that will stay;
Roses must die with the year."

"Another song of which he was especially fond was 'The Little Old Church on the Hill.'

"One night in Kern's room when we finished that song he said: 'Boys, that song tells a story and paints a picture of simple rural life that all men should reverence. It is the story of the people who are the bulwark of the nation's life.' "

It is on just such occasions as are herein described that the real character of a man asserts itself. No one who ever knew Mr. Kern at any period of his life will fail to recognize the fidelity of the portrait painted from memory by a man who was scarcely more than a boy when he knew the original.

III

The four years that Mr. Kern was reporter of the supreme court, 1885-1889, have been described by him in an address before the Indiana Bar Association as "in many respects the most interesting of my life." The five judges of the supreme court with whom he was intimately associated during these years among the greatest lawyers and most distinguished men who ever sat upon the supreme bench of Indiana at one time.

Not least among the things that went to make this "the most interesting period of his career" was his intimate association with the members of the bench. He did his work well, as the seventeen volumes of the Indiana Reports bearing his name testify. But in later years it was the amusing incidents of the period that he largely drew upon in conversation. He loved his practical joke then as throughout his life, and he frequently related the following at the expense of Judge Niblack, who was not much given to frivolity. The judge had decided a case from Pike county in which some people had been indicted for maltreating a goose under the statute regarding cruelty to animals. The point at issue was as to whether a goose was an animal within the meaning of the statute and Niblack decided that it was. One of the judge's pet hobbies was a short syllabi and he cautioned Kern and his deputies against long ones with such frequency that it made a rather disagreeable impression on the reporter. In the Pike county case, bearing Niblack's admonition in mind, Kern decided to write the syllabus himself. He made the headline, "Criminal Law," the subhead, "Cruelty to Animals," and the text, "A goose is an animal." He said nothing about it to Niblack, who read it for the first time in the proof, and then went to Kern. "I want to talk to you a little about this syllabus in the Pike county case," he said.

"You have said to me repeatedly that you wanted these syllabi cut as short as I could," Kern replied with simulated heat, "I had an opportunity here to show you what I could do with this opinion. You have decided that this goose was an animal, and I have so put it in the proof."

The old judge, taking it all seriously, and assuming a conciliatory tone, replied:

"That is all right, but in this syllabus you stated it too abruptly, and I wish you would lengthen it out a little."

This does not imply that Kern merely sought the amusing side of his work. He took pride in doing his work thoroughly and well. It was in some respects a post graduate course in the law. And no office in Indiana aside from that of governor has higher traditions or has been filled by so many men of distinction in political life. Notable among these were Benjamin Harrison, afterward president; Michael C. Kerr, afterward speaker of the National House of Representatives; Albert G. Porter, afterward governor and ambassador to Italy, and Mr. Kern, afterwards leader of the United States Senate, was to be succeeded by John L. Griffiths, one of the most brilliant orators of his time, who died while Consul-General to London. During the four years of his incumbency, Kern measured up to the high traditions of the office.

IV

Meanwhile he was extending his acquaintance among the politicians of the state, who flocked to Indianapolis during this period of party rejuvenation and renewed hope. When not in his office he was usually to be found in the hotels or wherever the politicians congregated.

It was a period when the political worker was expected to be given more or less to conviviality, or as it was expressed to "sociability." And never were social animals more in evidence than during this period. The young reporter of the supreme court, with his glow of humor, his ready wit, his good fellowship, soon became a prime favorite in the circle of conviviality, and the continual stream of politicians into the capital from over the state sought his companionship. The result was disastrous to his purse and destructive of his health, if not dangerous to his future. The result was that lucrative though his office was he spent his money as rapidly as he made it, and when he was renominated by his party in the campaign of 1888 he entered the contest as poor in purse though infinitely richer in friends and reputation as politician and speaker as when he sought his first nomination with the view to accumulating money. In this campaign the Democrats were greatly handicapped by the fact that the Republicans

had nominated Benjamin Harrison for the presidency and with crowds of enthusiastic partisans flocking to Indianapolis from all parts of the country, the element of state pride entered into the contest. Not satisfied with this advantage the Republican managers resorted to the notorious "blocks of five" plan of corruption, which was exposed, however, in the midst of the campaign. The result was the defeat of the entire Democratic ticket by an astonishingly small margin. Thus Kern left office as poor as when he entered. Indeed he almost immediately afterward disposed of his copyright on his seventeen volumes of reports to the Bowen-Merrill Company for a ridiculously small consideration.

V

Meanwhile he had definitely fixed his residence in Indianapolis, where he had no established practice and nothing to draw upon for immediate returns but his personal popularity and reputation as an orator and lawyer of ability. Before leaving Kokomo Mrs. Kern had died and in December, 1885, he had been married to Araminta A. Cooper, daughter of Dr. William Cooper of Kokomo at the home of her sister in Logansport, many of his political friends, including Governor Isaac P. Gray, "Jim" Rice and District-Attorney John E. Lamb, going up from Indianapolis. Though but nineteen years old at the

time of her marriage she became a real helpmate to her husband, mothering his baby daughter Julia, and meeting all her responsibilities then and ever afterward in a manner that increased his admiration for her along with his affection. Devoted to her home and family, of lively disposition, intensely loyal to her own, she was to contribute not only to his happiness during the remainder of his life, but not a little to his success. It was soon after his marriage that Kern finally put behind him the happy-go-lucky irresponsibility and convivial tendencies of his youth and entered upon a new life which was to bring him rich rewards.

On retiring from office, Kern formed a partnership with Leon O. Bailey, a prominent lawyer who, like himself, had a liking for politics and became definitely identified with the bar of Indianapolis, then, as now, notable for its strong men. While the firm engaged in general practice, it gave special attention to the civil side, and Kern, who had distinguished himself in his Kokomo days as a criminal lawyer only occasionally thereafter appeared in criminal cases. It is not the purpose here to dwell at length on his legal career in Indianapolis. Even the most noted cases in which he participated regularly during the remainder of his life or until his election to the senate have no more than a transitory interest. Quite early he added to his reputation at

the bar as special counsel for the state of Indiana in the famous railroad tax cases, as special counsel for the government in the equally famous cases growing out of the failure of the Indianapolis National Bank, in the "Swamp Land cases," which involved great sums of money, and these sufficed to place him toward the head of his profession. With his character as a lawyer we are interested in that it serves to paint the portrait of the man, and with this we shall deal in the chapter—"Kern: A Composite Portrait," with an analysis of Kern the lawyer, by Mr. Bailey, who was associated with him for ten years.

CHAPTER V

LEADER IN THE INDIANA SENATE—'93 AND '95

I

IT is not often in the recent political history of Indiana that a man with a state reputation as a leader established has aspired to a seat in the state senate, and this made Mr. Kern's candidacy in 1892 notable. His election assured the Democratic party a leadership in that body of more than ordinary sagacity and militancy. The election of 1892 had resulted in a clean sweep in Indiana for the Democracy, which had not only delivered the electoral vote to Cleveland, but had elected Claude Matthews governor and a large majority in both branches of the legislature. The Kern of this period was quite a different man from the Kern who had retired from the office of reporter of the supreme court four years before. He had entered upon the more serious phase of his career, having put behind him definitely the conviviality of other days. Easily the best known and most eloquent member of the senate, he had the further advantage of being recognized as one of the ablest lawyers who ever sat in the state senate chamber. By sheer force of superior ability and personality he immediately took rank as the leader of his party whatever may have been the intentions of some in position to determine committee assignments.

Mortimer Nye, the lieutenant governor, who made the assignments, was generous to Kern in the number of the committees to which he was appointed, including rules, finance, roads, public buildings, the city of Indianapolis, and the chairmanship of the insurance committee, but his failure to place him on the judiciary committee, in view of his position in his profession, was considered by many as remarkable. Indeed Mr. Nye's committee assignments were quite generally criticized and *The Indianapolis Sentinel*, the state organ of the party, commented pointedly upon Kern's absence from the judiciary committee. The lieutenant governor was to prove rather obstreperous and out of harmony with party policy on several notable occasions, and to be something of a thorn in the side of Governor Matthews.

Mr. Kern at this time was described by the legislative correspondents as "among the best-dressed men in the senate." He appeared habitually in a Prince Albert coat, and when on the streets in a black polished silk hat. His manner was cordial and ingratiating then, as always, and notwithstanding his marked partisanship at this period, the charm of his personality and his chivalric attitude toward opponents made him none the less popular on the Republican than on the Democratic side of the chamber. The legislative session of 1893 was distinguished by several notable new departures in the legislative pol-

icy of the state, especially in the line of labor legislation, and here Mr. Kern was a potent factor. He spoke frequently and with marked effect, often with force and eloquence, but more often in his brief remarks speaking in the vein of humor or ridicule.

His first prominent participation in the work of the senate must have been in the discharge of a congenial duty. He had charge of the interests of United States Senator David Turpie, who was up for reelection. In the state convention of 1892 he had undertaken, in conjunction with James M. Barrett of Fort Wayne and a few others, to make Turpie's reelection a certainty by making an unsuccessful fight before the committee on resolutions for a party declaration in his favor. While David Turpie was one of the most scholarly and worthy champions of Democratic principles the state has produced, he was not given to the graces of typical politicians and, lacking the more spectacular qualities of men like Voorhees, he was never properly appreciated by the rank and file. He might be properly styled a leader of the leaders. After the election an effort had been made in some quarters to inject John G. Shanklin, the brilliant editor of *The Evansville Courier*, into the contest, but that gentleman refused his consent and favored Turpie. Notwithstanding his position, one vote was cast in caucus for him over the protest of Kern, who was authorized by Shanklin to make it.

The speech in which Kern presented Turpie's name, while eloquent and in better taste than such addresses usually are, is chiefly interesting here for the light it throws on the speaker's personal attitude toward party leadership. The following excerpt might have been taken from a tribute to Kern himself:

"During these forty years David Turpie has been a Democrat, and whether leading a forlorn hope under dark and lowering skies with defeat inevitable, or whether at the head of a victorious column making a final charge to victory already assured, he has been equally brave and earnest, never wavering for a single moment in his devotion to the cause so dear to his heart. While others faltered and tired, Turpie was renewing his vigor and preparing for a renewal of the fray. While others were dealing with questions of policy and debating the feasibility of new departures, Turpie laid fresh hold upon the teachings of Jefferson, and pressed forward in the cause of honest money, home rule, personal liberty and constitutional method."

It was during this session that he disclosed the courageous attitude toward public questions which distinguished him ever afterward, and in the light of that record it is difficult to understand the partial success of his political opponents in fixing upon him the reputation of being a trimmer. Among the many measures no longer of interest and pertaining par-

ticularly to Indianapolis affairs we are concerned only with one relating to the amendment of the city charter providing in the case of street paving that the crossings should be paid for by the property owners directly affected. For many years it had been the policy to pay for these crossings through general taxation. In the older sections of the city, where property was more valuable and property owners more prosperous, the crossings had been paved, and the poorer classes in less favored sections had been taxed to pay for them. It was the conviction of Mr. Kern that it would be an injustice to change that policy at a time when the poorer sections were preparing for improvements. His view was at war with that of powerful elements. The city administration, a Democratic administration presided over by a mayor who had been twice placed in nomination by Kern himself, favored the amendment to the charter. The Commercial Club, composed at that time of 400 of the leading business men of the city, was aggressively behind it, and the press of the city was insistent upon it. A trimmer lacking in courage would scarcely have undertaken to stem the tide. This Kern did in his first important speech of the session, and while he lost his fight he made an impression that confirmed the general opinion of his ability. In describing this, his first argumentative speech in the state senate, *The Indianapolis Sentinel* said:

"When Mr. Kern rose all the senators wheeled their chairs around to listen better. This was to be Mr. Kern's first argument on an important measure, and those who had never heard him in joint discussion wanted to see how he would acquit himself. His reputation as an orator extends all over the state, and though he espoused a losing cause yesterday he did not disappoint his friends."

II

It was in connection with labor legislation that Kern at this time fashioned his reputation as a public man—a reputation that was to make him ardent friends and powerful foes. Throughout his life his instincts had always impelled him to take up the cudgels for the lowly and oppressed. Even before entering the state senate he had written many bills for the legislative committee of the state federation of labor and the working classes naturally looked to him for leadership. The first battle along these lines in which he participated was in connection with legislation relating to the legal status of the labor union. In the first part of the session a bill had been introduced to legalize the unions and this had been instantly met by the introduction of a bill "for the protection of non-union laborers." The Democratic caucus quickly disposed of the latter by rejecting it, and Francis T. Hord, its sponsor, threatened for a time to resign his seat. The former bill was bitterly

contested and Kern had charge of the measure when it reached the senate. The "business interests," as they called themselves, were greatly outraged at what they pretended to look upon as a direct interference with their rights. The purport of it was to make it a misdemeanor punishable by fine or imprisonment for any employer of labor to discharge or threaten to discharge an employee because of his connection with labor organizations, or to exact a pledge from them that they would not affiliate with the unions. Only a little while before Pinkerton detectives had shot down the laborers of the Carnegie plant to the applause of that element in the country which pretended to conservatism and respectability. That Kern's views on the labor question were early formed, deeply felt and consistently held will be seen in the rather fiery speech he made in advocacy of the Deery bill:

"It is a crying shame that in this year, 1893, and in Indiana, there should be a demand for legislation of this kind. It is outrageous that the representative of a great corporation, created by public favor, clothed with the extraordinary power of eminent domain, grown fat and rich by favorable legislation, should have the hardihood to strike at the liberty of its workingmen by demanding of them that they give up membership in their unions, to which they are as devotedly attached as they are to church or party, under penalty of dismissal from employment. In

other words, the alternative presented is "renounce your allegiance to your union or go forth without employment to face possible penury and want. 'I hold in my hand the constitution of one of these organizations in which the purpose of its existence is set forth. It is a high and noble purpose—to rescue our trade from the low level to which it has fallen, and by mutual effort to place it on a foundation sufficiently strong to resist further encroachments; to encourage a higher standard of skill, to cultivate feelings of friendship, to assist each other to secure employment, to relieve our distress and to bury our dead.'

"This is the creed of the men whose organization is imperiled by the arrogant demands of corporate power and wealth and who are compelled to come to this body to ask protection. Mr. President, the paramount object of law is to protect the weak against the strong. Here is a case in which the protection of the laws is most properly invoked. It is an undisputed fact that in this city, where more than 10,000 labor union men are engaged in daily toil—earning a livelihood and piling up wealth for their employers—all loyal and law-abiding citizens, a great corporation, through its authorized agents, drives out its employees, faithful and honest, for the avowed reason that with true American spirit they declined to surrender their sovereignty and at the bidding of the master give up cherished principles and attachments.

"This anti-Pinkerton law was conceded to be and is a most beneficial measure, yet according to the arguments here it would fall under the ban of class

legislation. So of the anti-pluck-me-store law and every other enactment in the interest of labor. Organized labor is the outgrowth of organized capital. Labor was organized in self-defense. For years and years and years organized capital was fostered and fed by favorable legislation, until it grew defiant and insolent and refused to treat with decent respect to the rights of the men whose toil gave them wealth. As a result labor organized that it might live—that it might have a share of its production. Its organization brought respect and dignity with it. It Americanized the laborer who had long been denied many of the rights of citizenship. Better work, better morals, better men, happier homes and firesides have resulted. The bill is right. No man who loves liberty should oppose it.”

This extract will suffice to indicate the general character of Kern’s defense of labor unions, and the speech was received with hearty commendation in labor circles throughout the country.

To appreciate the courageous nature of Kern’s act it should be borne in mind that organized labor was in its infancy; that the Knights of Labor only a little while before had gone to pieces; that the national government but four years before had not hesitated to turn the guns of American troops upon striking unionists; and that men calling themselves “conservative” were bitterly opposed to the new movement resulting in the organization of the American

Federation of Labor four years before. But in addition to all this, there were local conditions which made Kern's act one of rare courage. Scarcely a year before, when an effort had been made to organize employees of the street railroad company, the employers resorted to extreme methods to prevent the organization. A serious strike resulted. For several weeks Indianapolis was without street car service. The press, the business element, the "conservatives," denounced the strikers and finally brought such pressure to bear that the mayor reluctantly consented to furnish police to accompany the cars. The strike was lost. The feeling was bitter. The most powerful influences in Indianapolis were uncompromisingly opposed to unions.

Kern's speech was consequently notable, not only because it was a supremely courageous performance, but the first one ever uttered in the state senate of Indiana in advocacy of union labor.

The bill was passed and became a law. Labor never forgot the service—and neither did the enemies of labor.

III

Even more epoch-making was the passage during this session of the first employers' liability law ever enacted in Indiana, and at a time when not more than three other states had passed such legislation. The bill was introduced in the house by S. M. Hench,

and after a rather spirited fight it passed that body and reached the senate, where it was diverted from the committee on labor to the judiciary committee. Here it seemed destined to remain. Every effort on the part of its author to get a report was unavailing. Meanwhile a powerful railroad lobby had swooped down on the capitol and was exerting itself in the open to encompass its defeat. It was generally understood that Lieutenant Governor Nye, who was a railroad lawyer with a professional view of the measure, was strongly opposed to it, and when, after having reached the senate on February 17th, the month of March came, with the certainty that but four days remained for the passage of bills, it became apparent that extraordinary measures would have to be taken if it were to become a law. The railroad men's legislative committee had reached the end of its rope. On the morning of March 1 *The Indianapolis Sentinel* demanded action upon it in an editorial that placed the lieutenant governor in an embarrassing position by the significant suggestion that "the bill should not have been referred to the judiciary committee in the first place;" and that put the Democratic members on their mettle with the warning that in the event of the failure of its passage "the Democratic party will be held responsible." This editorial, the first of several that were to appear, was bitterly resented by Mr. Nye and the members of the judiciary committee,

who were, nevertheless, thereby placed on the defensive. Other editorials charging responsibility upon the railroad lobby, put all the members of the senate on their guard.

On March 3 the labor leaders appealed to Kern to make one final effort. He was in hearty sympathy with the measure, but up to this time had not been asked to take the active management of it in the senate. On the night of that very day he appeared before the judiciary committee and debated the merits of the bill with the railroad lawyers, who were there to oppose it. The committee, unfriendly from the beginning, and rather embittered, no doubt, by the editorial reflections upon it, stubbornly refused to report the bill unless the railroad employees would agree to accept a certain amendment. On the morning of the 4th, the last day it could be acted upon, Kern called a meeting of the legislative committee of the Federation of Labor, and it was agreed by them that the acceptance of the amendment would be preferable to no bill at all. This agreement on their part was then reduced to writing by Kern, and with the signatures of the legislative committee affixed he hastened to the judiciary committee and insisted upon a report. When the bill was reported with the recommendation that it pass as amended, he moved concurrence in the report, the suspension of the constitutional rules, and its passage. It was now

rather late in the day and the amendment required its repassage in the house—a fact that the enemies of the bill doubtless counted upon. But the moment it passed the senate Kern hastened to the house and saw Captain James B. Curtis, the speaker, who had all other business suspended to consider the bill as amended. It only required twenty minutes to get it through the house the second time, and Kern personally took it to the governor for his signature.

This was one of the greatest victories that labor ever won in the Indiana legislature. Since that time the world has moved far in the way of remedial legislation, and the employers' liability law of 1893 has long been antiquated, but at a time when only two or three states in the union had enacted such legislation it was a signal and significant triumph for the labor cause in Indiana.

This, too, was a service that laboring men never forgot—and this, too, contributed to fix Kern's status in the minds of the enemies of labor as dangerous and demagogic.

During this same session Kern took a leading part in the passage of a child labor law, a fact that was recalled more than a quarter of a century later when the president of the United States placed upon him the responsibility of piloting through the United States senate the first national child labor measure ever written in the statutes.

Quite as indicative of his life-long attitude toward labor problems was his introduction of a bill to establish a state board of conciliation for the settlement of controversies between employers and employees. This bill reached third reading, but failed of passage.

The close of the session found Kern more of a state figure than he had ever been before. He had been easily the dominating figure, the interesting personality. His speeches had been characterized by more substance, more sparkle, more originality than are customarily heard in the Indiana legislature. His humor and ridicule had delighted the objects of them. His social qualities had endeared him to all his colleagues. And among members of the opposition it was understood that while he was intense in his political convictions there was nothing bigoted or bitter in his estimate of men who opposed them. This was disclosed in many graceful little incidents, as when he moved that the senate adjourn in respect to the memory of James G. Blaine.

IV

The state senate of the session of 1895, due to the political upheaval of 1894, was Republican, and Kern found himself in the rôle of leader of the minority—the only time in his career where he appeared as such. It is significant of his personal popularity and standing among Republicans that the ma-

jority in the making of committee assignments placed him upon the judiciary committee from which he had been excluded by a Democratic lieutenant governor, and he was continued on the rules committee and of course with the committee dealing with legislation relating to Indianapolis. Neither the journal of the senate nor the newspapers of the time indicate that he was particularly persistent in his opposition until toward the close of the session. The proceedings of the majority were flagrantly partisan and in many other ways open to censure. The majority was lead by Albert W. Wishard, an Indianapolis lawyer and politician of high professional standing, one of the most brilliant men who ever served in the Indiana legislature, for whom Kern entertained a warm personal regard. The partisan bitterness, however, which developed toward the close of the session did not prevent the latter from warmly defending the Republican leader against the charge of feigning illness to escape a vote. This kind of chivalry characterized him throughout his life, but signally failed to protect him in later years from the most vicious personal attacks on the part of a large portion of the Republican press of the state.

This bitterness of partisan feeling was engendered by the Republican plan for the gerrymandering of the state. The bill agreed upon by the Republican caucus represented partisanship gone mad. The

most grotesque combinations of counties were made for congressional and legislative purposes. The most vehement protests of the Democrats and of citizens of sufficiently independent character to resent injustice were of no avail. The Republicans, booted and spurred, rode rough shod over all opposition. A United States senator was to be elected the next year and nothing in the way of the juggling of legislative districts that would make more difficult the re-election of Daniel W. Voorhees was left undone. Appreciating the impossibility of preventing the consummation of the plan, Kern withheld his fire until the bill was put upon its passage, and then in an excoriating speech, all the more severe because every count in the indictment he drew was notoriously true, he voiced his protest in a general denunciation of the legislative record made by the party in power during the session. This speech is historically interesting, especially the following:

“In 1887 you denounced the rules of the senate adopted by the Democratic majority under the leadership of Green Smith as ‘outrageous, brutal and revolutionary,’ and yet on gaining power you reenact those rules without the dotting of an i or the crossing of a t.

“In former years you have denounced the Democratic legislatures on account of the number of their employees; and yet here in the senate chamber senators can scarcely get in and out of the chamber with-

out stumbling over the crowds of idle and useless employees who swarm about performing no service.

"You have denounced the Democratic 'profligacy' in the little items of expenditures about the general assembly, and yet I call your attention to the fact that of the twenty-eight sets of Burns' statutes purchased by the senate for the state at the commencement of the session every set except three have been stolen and carried away.

"You lay claim to a record of economy and yet, leaving your officers with their princely salaries, you seek to make the record good by taking food and clothing and the comforts of life from those of God's unfortunate children who are confined in the asylum of the insane, and those who are being educated and cared for in the institutions for the deaf and dumb and blind.

"You have claimed to favor the abolishment of the spoils system from the politics of the state and yet under your legislation of this session politics has been carried into the public schools for the first time in the history of the state."

Interruption—"How about the Nicholson law?"

Kern—"I am obliged for the interruption. The Democratic party has never posed as the great and only party of morality and temperance. The Republican party has. Do you remember your recent campaign waged under the banner—the Home Against the Saloon? If the Democratic party had made such pretenses as these I am sure its members would not, when the Nicholson bill was called, as it was yesterday, have been found running in all directions like

fox chases to dodge a vote. They would have had the courage of their convictions. The Democratic party in the last campaign had no deal with the liquor element of Evansville or elsewhere. It had no entangling alliances that drove its members out of the chamber when the roll is called in order that they might dodge the consequences of a vote. Republican senators here who have been loud in their pretenses of temperance and morality in the years gone by turn pale and tremble and run like hounds at the mere mention of the Nicholson bill. At last they have been smoked from under the cover of hypocrisy and are appalled at the sight of the light of day, which is finally turned upon them.

"The end of these false pretenses is come at last. . . . And that is why I say that at the close of this session, with this record, it is fitting that there should come this gerrymander which in its iniquity is sufficient to cause the old original Gerry to turn in his grave at the thought of his utter incapacity in that line when compared with the modern Republican reformers of Indiana."

V

The reference to the Nicholson law was thoroughly understood by all his hearers. In the campaign of 1894 the Republicans had laid claim to being the party of temperance and had held forth the promise to the temperance people that a Republican assembly would mean temperance legislation. This pretense was accepted at face value by the temper-

ance workers. At the same time it was generally understood that one of the Republican leaders had entered into a secret understanding with the "wets" at Evansville that any temperance measure presented would be either pigeonholed or passed in a form that would make it utterly worthless for its purpose. Soon after the legislature met Representative Nicholson had introduced his bill and the game of hide and go seek was on. Seldom if ever have more exciting scenes been witnessed about the state house during a legislative session than those of this period. On days when it was known that any phase of the bill would be discussed in either branch of the assembly the galleries were packed to overflowing and great throngs jostled about in the corridors. The temperance forces were organized and awake. In the pulpits of the capital on Sundays the ministers demanded the passage of the bill. This general interest was embarrassing to the Republican politicians, who had not counted upon being called on to do their tricks of legislative legerdemain in the white light of publicity. There was no opportunity to stop the progress of the bill in the house, but when it reached the senate it was referred to the temperance committee, whose chairman, strangely enough, was notoriously unfriendly to temperance legislation. Here it was expected to slumber—and here it slumbered for quite a while.

It was at this juncture that Kern entered the story. At this time he held the traditional views of the Indiana Democracy on the subject of personal liberty and sumptuary legislation. He was himself a teetotaler. But he had a profound contempt for hypocrisy, and in his fight to expose the perfidy of the double-dealing policy of the opposition it is probable that he, more than any other one man, was responsible for the passage of the Nicholson law.

On March 4th, toward the close of the session, he threw a bomb into the opposition camp by offering a resolution instructing the temperance committee to have the bill before the senate, with or without recommendation, by 3 o'clock on the following afternoon. This did not harmonize with the plans of the committee or its chairman, but the resolution was adopted and the fun commenced. The Evansville agreement had been given a tremendous jolt. The temperance forces took their cue and flocked to the senate. The white light of publicity began to beat unmercifully upon the proceedings. Taken unaware and not yet prepared to submit a report the committee on the following day asked for another day's delay, which was granted over the protest of ten members led by Kern, who jocularly moved after the vote was taken that a committee be appointed "to draft resolutions of respect for the late lamented Nicholson law." These tactics, by casting suspicion

of the sincerity of pretended friends of the measure, made further delay impossible, and on the following day the bill was reported with amendments. After this Kern applied himself to amendments. He was one of four who voted in favor of permitting the saloons to remain open until midnight in cities having a population of 25,000 and over. And he followed this by his own amendment, known as the "drug store amendment," for which he has always been remembered. This provided that it should be unlawful for any spirituous, vinous or malt liquors to be sold or given away in drug stores except on the written prescription of a reputable physician. This amendment was adopted and a motion to reconsider was lost. When the bill as amended went to a vote Kern was one of nine who voted against it.

But this was not to be the end of the fight. In the house the Kern amendment was rejected and in conference the amendment was changed to read that in drug stores liquor should not be sold or given away without prescription in any quantity less than a quart. When the conference report was submitted in the senate Kern made an onslaught on the drug store proviso as changed, resulting in a spirited debate which gave him an opportunity to attack the sincerity of the majority. Accused of introducing the drug store amendment in the interest of the saloons, he demanded to know whether the bill was intended

“to advance the cause of temperance or mainly for the purpose of legislating against one business in favor of another,” and in a scathing denunciation of the spirit of hypocrisy he pictured the sanctimonious double-dealer, well known at that time, who loftily attacked the saloon while stopping at the corner drug store on his way home from church for his dram or bottle behind the prescription case.

That the dominant party's plans had been sadly disarranged by Kern's activities was disclosed in its resentment toward him manifested in the passage of a resolution two days after the passage of the bill “extending on behalf of the majority our thanks to the minority and the governor for their assistance in passing the Nicholson law, and especially to Senator Kern of Marion for his drug store amendment to said bill, which he failed to honor by his affirmative vote.”

This resolution was not a mere bit of jocularitv, but an attempt to at least neutralize the responsibility of the Republican party in violating the Evansville pledge to the “wets.” Governor Matthews had taken no part in the fight and had merely signed the bill when presented to him in due course for his signature, and the introduction of his name was merely intended to call the attention of the “wets” to the fact that a Democratic governor had signed and not vetoed it. And the special reference to Kern was in line with the excuse made to the “wets” for failure

to smother the bill or to hopelessly emasculate it that but for his resolution calling upon the committee to report it would not have seen the light of day. In this they succeeded. There was never a time after that when Kern was not looked upon as unfriendly by the so-called liberal element, and his mandatory resolution compelling a report on the Nicholson bill was always given as evidence of his hostility. As a matter of fact he was not in favor of the bill. He expressed his views in his vote on the final passage. But the Republican leaders had solemnly pledged the party to genuine temperance legislation and had been overwhelmingly placed in power with that understanding—at the same time receiving the support of the liberals through a secret understanding. The hypocrisy of their position disgusted Kern, who deliberately set about to compel them to legislate in accordance with pre-election promises to the temperance forces whose support they had received, or to expose their hypocrisy. He succeeded in both, and he was never forgiven by either the Republican politicians or the liberals. It is not recorded either that he ever profited greatly from the temperance people. But he satisfied himself.

All in all the session of 1895 was one of the most vicious in the history of the commonwealth. The charges made by Kern in his speech against the gerrymander were true. It was literally true that

the Burns' statutes purchased with the state's money for the state, to be used during the session by members, were actually stolen and carried away. But he might have added that there have been few sessions of the Indiana legislature during which there was so much general talk of the corrupt use of money. The hotels swarmed with lobbyists, and even the female lobbyist, a rather rare species at that time in Indiana, made her appearance, and in one instance created something of a scandal by being ejected from a hotel. Until then most of the lobbying had been done in the capitol, openly, but this session ushered in a new departure—the lobbyists did their work in hotels and other places.

This ended Kern's career in the state senate. It had profited him greatly in that it had presented to the Democracy of the state a new Kern—a Kern seasoned, sobered by experience, who retained his youthful fire, intensity and eloquence. He entered the senate personally popular and widely known, but generally looked upon as a merely effective campaign speaker; he left it a recognized leader of the party in the state.

The estimate of his colleagues has been furnished me by Hon. M. A. Sweeney of Jasper, who served with him:

"He was by common consent, and without the least assumption on his part, the admired and beloved

leader of our party there. I feel fully justified in asserting that no member on either side of that body of legislators ever questioned his mental superiority, personal integrity or magnanimity. In that arena of public debate, in which the flow and ebb of acrimonious clashings in verbal swordsmanship afford so splendid an opportunity to draw the line of cleavage between the cheap politician and the true gentleman and statesman, it was there he stood without a peer, personifying the calmness of power.

“His kind assistance to, and his painstaking patience with the embryonic, ambitious, would-be statesmen of his own or of the opposite party, were almost paternal in him; if your cause had merit, you ever found a true and helpful friend. No matter how arduous and exacting his senatorial duties were, and they were multifarious and onerous, he never hesitated to listen graciously to our crude ideas of state craft, and he gave very much of his valuable time in aiding and advising us in whipping into legal forms statutes the vain glory for which was worn by others, while he was always willing to remain unknown in all such affairs. He did not have an enemy in that body, and if he had it was not Senator Kern’s fault, for his suavity of manner and his courtliness of bearing toward every one won all to him.

“His arguments before the senate, or before its important committees, coming from his well-stored and well-balanced mind, always gained keen attention, for they were characterized by clearness, force, and dignity of diction; they were made to enlighten and instruct his audience, and he never permitted

himself to descend to buncombe, billingsgate, specious pleading, or petty politics. His language was chaste Anglo-Saxon 'from the pure well of English unalloyed.' He preferred to inform his hearers by presenting plain, pertinent facts rather than to resort to the tricks of the rhetorician in order to secure the passing tribute of applause."

CHAPTER VI

EUROPE AND THE CAMPAIGN OF '96

I

IN the summer of 1895, after the adjournment of the legislature, Mr. Kern, on the advice of his physician, went to Europe for a period of rest and relaxation, and spent a few weeks in France and England. We are permitted glimpses of him in his meanderings through letters written at the time to his father and sister, Mrs. Sarah E. Engel. He sailed from New York on June 29th on a German ship "not fashionable but substantial and safe." Landing at Southampton, he hurried on to London, greatly impressed by "the beautiful agricultural country—said to be the finest part of rural England, and rivaling in appearance any part of America I have seen," but amused at "the little Jim Crow cars" and the "freight cars about the size of covered wagons." In London, where he stayed at the Morley Hotel, he was fascinated by the throbbing greatness of things. "It is as far ahead of New York as New York is ahead of Indianapolis," he wrote. Here he settled down to seeing London in his own way, and we find him seated beside the driver of an omnibus, "getting a bird's-eye view" of the city, and for an additional six pence having pointed out the great parks, the British Museum, St. Pauls, London Bridge, the Bank

of England, the Tower, the Mansion House, the Temple, Westminster, and the various churches. Having thus got his bearings he settled down to intensive touring, delighted with everything he saw except the people whose condescension he resented. General Patrick Collins of Boston, a friend, and then consul-general to London, was attentive, and he had a letter to T. P. (Tay Pay) O'Connor, the famous member of the Irish parliamentary party, who pointed out the lions of English public life in the House of Commons. He spent some time in the courts, visited points of historic interest, and attended services in St. Pauls, which he found "bewildering." "The music of the great double organ and all the hundred voices of the choir, reverberating throughout the arches and the domes, was beautiful, but awe inspiring."

At the Morley Hotel he met Judge Alton B. Parker, a prominent member of the New York bar, destined to be his party's nominee for the presidency nine years later, and discovering many mutual interests and friendships, an attachment was formed which existed to the day of Kern's death. The two lawyers tramped the tourist's path together and had many a chat at the Morley.

After little more than a week in London he crossed to Paris, where his personal friend and political co-worker, Samuel E. Morss, editor of *The Indian-*

apolis Sentinel, was consul-general, and here he was given every advantage that the official prestige of his friend could bestow. He was delighted with Paris, "the most beautiful city in the world," and especially with the French people. "The people of all classes are happy," he wrote his father, "and go in for having a good time. The very poorest classes are bright, cheerful, and clean. I don't think I saw a sad face in France. They are quite prosperous and show great evidence of thrift." Morss turned his office over to his subordinates and devoted his entire time to entertaining the man from home, and it is not improbable that not a little Hoosier politics was discussed between the two.

While it was his intention to visit Ireland, his experience in channel crossing on his return to England was so disheartening that he abandoned his original plan of visiting Dublin and the Killarney lakes. On learning that the weather at the time was abominable in Scotland he decided to spend the remainder of his time in England and see some of the country outside London. "One of the most interesting trips I have made," he wrote Mrs. Engel, "was to the Shakespeare country. I went from London to Harrow, then to Rugby, made famous by Tom Hughes' great book, then to Coventry, then to Lemington, a great watering place, thence by coach along the banks of the Avon to Stratford-on-Avon, where

Shakespeare was born and is buried. This trip—thirteen miles—was through the most beautiful country I have ever seen. Stratford is a little city of 8,000, and one sees and hears nothing but Shakespeare. The house in which he was born, and the cottage where Ann Hathaway lived and in which he courted and married her are very old, but are preserved by trustees. The house in which he was born is filled with Shakespearian relics of every description. His tomb and monument are in the village church. The people get their principal living from tourists. There have been over 20,000 visitors there this year, and each one has something to pay every time he turns around."

On this trip, too, he visited Warwick Castle, and later on Windsor Castle. Like a true Democrat he did not fail to "drive out three miles to the fields of Runnymede, where the English barons compelled King John to sign the Magna Charta;" and the sentimental side of his nature impelled him to make a journey of reverence to the tomb of Gray, the poet, and the church whose curfew "tolls the knell of parting day." Contrary to the spirit of the average tourist, he took a deep interest in English farms and farming and in a letter to his sister, who lived upon a farm, he observed: "The farming here is splendid. Every foot of ground is made to produce and produce well. There is no poor farming here, and no

poor crops this year. The wheat is now being harvested. They raise no corn here—but produce an article called ‘horse beans’—something similar to our peas, which the horses thrive on. The horses are splendid beasts. Those used for draft purposes look nearly as large as elephants, and their driving horses are very fine. It is a great mutton-eating nation, and sheep are raised by the thousand—you see them everywhere.”

By the latter part of August he admits that he has “had his fill of sightseeing and anxious to get back home and to work.” His health was greatly benefited by the change when he reached New York in the first week of September.

II

At the time of his return to Indiana the great debate to determine the position the Democratic party was to take on the money question had commenced. The administration of Grover Cleveland had lost the confidence of the major part of the party in the state. The bond issue stuck in the craws of the masses. The silver wave was sweeping over the country, destined to leave many wrecks in its wake and to throw upon the rocks many new lights of party leading. In Indiana the silver forces were militantly aggressive and were busily engaged in perfecting an organization which was to make history. In view of his sub-

sequent intimacy with Mr. Bryan and the radical forces of the party, it is interesting to find that during the period of the preliminary debate Mr. Kern remained unresponsive to the fervent appeals of the friends of silver. As the time for the state convention approached, the conservative members of the party took counsel in the hope of stemming the tide which gave promise of committing the party aggressively to the cause of the free and unlimited coinage of silver without awaiting the action of any other nation. Many of the most influential and prominent party leaders in the state were strongly opposed to such action, and were convinced that such a course would work irreparable disaster to the party prospects for years to come. It was not a new party battle in Indiana. In other days, when the fiat money idea was uppermost in the public mind, it required all the prestige of the leadership of Hendricks and McDonald to dissuade the party from adopting a radical platform in conformity with the greenback philosophy.

About the middle of May, 1896, a free silver conference was held in Indianapolis which bubbled with enthusiasm and seethed with the spirit of revolution. Some of the leaders in the movement boldly announced that the failure of the party to stand for the free and unlimited coinage of silver would release them from all allegiance to the party in the cam-

paign. The conservatives, or gold men, determined to challenge what they considered a dangerous movement at a mass meeting which was called at the English Opera House in Indianapolis on the evening of May 28. This meeting was addressed by some of the most popular leaders in the state and was presided over by Captain W. R. Myers, long an idol upon the stump. Speeches were made by Alonzo G. Smith, former attorney-general, former Congressman William D. Bynum, who had been a prime favorite with the Indiana Democracy and enjoyed a well-deserved national reputation, former Congressman George W. Cooper of Columbus and Mr. Kern. Resolutions were adopted on the motion of Pierre Gray, son of Governor Isaac P. Gray, four years before Indiana's candidate for the presidency. A committee was appointed to work for "the cause of sound money" at the coming convention, consisting of such well-known Democrats as Thomas Taggart, John W. Holtzman, S. O. Pickens, John R. Wilson, Capt. W. R. Myers, William D. Bynum, James E. McCullough, James L. Keach and John W. Kern. It would be a travesty of history to ignore the fact that previous to the action of the national convention at Chicago Mr. Kern was strongly opposed to the free and unlimited coinage of silver without regard to the action of any other nation. He realized early the trend of the times and the difficulty of changing

the drift. Times were hard. The party had been shamefully betrayed by the Interests in the making of the tariff law. The bond issue had divorced the confidence of the rank and file of the party from Cleveland. The spirit of revolution was in the air. It required courage to stand forth and command the tide to turn back.

One week later this mass meeting was met by the silver forces with one of their own at the same place which was addressed by John Gilbert Shanklin, the brilliant editor of *The Evansville Courier*, and former Congressman Benjamin F. Shively, who was, by long odds, the most eloquent champion of silver in the state.

The battle was on.

Seldom has a more turbulent, revolutionary convention ever met in Indiana than that which was called to order in Tomlinson Hall to fight out the party differences on the money question. Bynum, who had made himself a party idol by his mastery of the tariff question and his haughty defiance of Tom Reed, was hooted to silence repeatedly when he attempted to speak. He stood stubbornly minute after minute waiting for the lull in the storm that never came and finally took his seat. Later the motion of John E. Lamb of Terre Haute to grant him ten minutes for a hearing was hooted down. The gold delegation from Marion county (Indianapolis)

was thrown out over the written protest of Kern, the only member of the committee on credentials who was not a silver man. Governor Mathews was indorsed for president, and only the personal plea of Shanklin prevented the convention from making him a delegate at large in the place of a gold man personally selected by the governor. Mr. Shively was nominated for governor and started out on his remarkable canvass in which his speeches were only approached in brilliancy by those of Bryan. Samuel M. Ralston also began his career in state politics as the nominee for secretary of state. And a little later at Chicago Bryan swept the convention off its feet with his famous "cross of gold and crown of thorns" speech and set forth on the most amazing canvass in the history of the republic.

Then the nation began to boil and bubble as never before. Silver men deserted the Republican party, and gold men proclaimed rebellion from the Democratic ranks. Families were divided and father arrayed against son and brother against brother. Nowhere was the schism more pronounced than in Indiana.

The Democratic state organization was disrupted and the state chairman thrown out in the midst of the campaign. Through the summer and on until the election in November great crowds surged and argued and fought at all the principal street corners of

Indianapolis from early morning until night, and peaceful citizens were awakened from sleep at 5 o'clock in the morning by wrangling newsboys, embryo politicians, debating in loud and angry tones beneath their windows.

Many Democrats who had opposed the free silver men before the convention and remained within the party during the campaign found themselves the object of suspicion and distrust. Some of these stoically maintained silence. Others tried to make their party loyalty beyond question by promptly reversing themselves on the platform.

"Where are you going?" asked a friend of the eloquent Frank B. Burke, then United States district attorney.

"I am going down to Jeffersonville to answer an absolutely unanswerable speech against free silver made down there two weeks ago by a man named Burke," drawled the district attorney without a smile.

Many, long prominent in the party councils, openly espoused the cause of Palmer and Buckner. Some crossed the twilight zone into the Republican party, where most of them remained.

The one Democrat in Indiana who had fought for gold whose fidelity to the party was never questioned after the Chicago convention spoke was John W. Kern.

He had made it clear in the English Opera House

speech that he would abide by the will of the majority. Believing as he did that the public interest is wrapped up in the success of the general underlying principles of the Democratic party, he was unwilling, because of his disagreement with some one plank in the platform in any one campaign to be a party to the wrecking of the organization. That alone, and his willingness to abide by the will of the majority, would have kept him within the party and at its service.

But it was not long until he had other grounds for actively espousing the cause of the party under the leadership of Mr. Bryan. The instant rallying of the Black Horse Cavalry of the special interests against him, the methods of open intimidation and coercion of workingmen, the political blackmailing of bank depositors, the collection and distribution of a corruption fund never before thought of in American history soon gave to the conflict the aspect of a battle between plutocracy and democracy. The silver question became a mere incident in the struggle. It carried with it other issues to which he was ardently attached—the income tax, the popular election of senators, the protection of workingmen from the coercion of their employers at the polls, the correction of the evils of the injunction. On the broader issues of that campaign he threw himself with his customary zest into the fight. Early in the campaign he met

Mr. Bryan for the first time. In his interview he made it bluntly known that before the convention he had fought against silver, and his frankness and directness at that time so won the confidence and respect of The Commoner that he said he "could ask no stronger support." He emerged from the campaign stronger with the masses of the party than ever before, and more than ever convinced that in view of the sinister trend of the times the wrecking of the party would have been one of the greatest tragedies in American history.

CHAPTER VII

GUBERNATORIAL BATTLES

I

THE Democratic leaders in Indiana approached the campaign of 1900 with a feeling of considerable pessimism. The disaffected element which had left the party in 1896 on the money issue had not yet returned to the fold, and it seemed improbable that the white-heat enthusiasm of Mr. Bryan's following in his first campaign could be maintained. The election of 1898 had brought no rift in the clouds, and the party in power seemed hopelessly entrenched. With conditions prosperous, our armies but recently victorious, our possessions increased through the acquisition of Porto Rico and the Philippines, with all the pomp and circumstances of a national triumph with an enemy waving the flag, the Democratic party was about to make its appeal to the people on an abstract question of political morals. We were to discuss the wrongs of a people thousands of miles distant, of another race and color, of whom hundreds of thousands of Americans had never heard. And while these wrongs could not inevitably react upon our own people the practical politician and psychologist of the stump was painfully conscious of the difficulty of making that point sufficiently impressive. Under these circumstances

there was no great demand for places on the state ticket, and as late as the first of May no one had manifested any desire to lead the party as its candidate for governor. About the first of May, Frank B. Burke announced his candidacy. He was in many respects one of the most remarkable men in the political history of the state, at times under the proper inspiration thrillingly eloquent, courageous as a lion, and possessed of a personality that endeared him to friend and foe alike. As United States district attorney under Cleveland he had won the admiration of the bench and bar and made an impression upon the people in the streets. But with all his splendid qualities he was lacking in one of the essentials of safe leadership—he was utterly deficient in tact and always preferred a fight to a compromise. In brief he was a genius with all that that sometimes implies of weakness.

At that time I was writing editorials on *The Sentinel*, and, being one of Burke's youthful idolators, I wrote a fervent editorial eulogy on the day of his announcement and took it to Samuel E. Morss, the editor and former consul-general to Paris, for his approval. He read it with evident amusement and tactfully suggested that while Mr. Burke was a brilliant and able man, there might be other candidates and it would not be advisable for *The Sentinel* to take such a pronounced stand that early. I did not

know at the time, being scarcely out of my teens, that the "organization" forces were bending every effort to persuade Mr. Kern to enter the lists. The first choice of the organization was Mayor Taggart, who persisted in his refusal to make the race. It was then that the politicians turned to Kern.

Independent of politicians associated with what may be described as "the organization" were scores of Democrats throughout the state, personal friends and admirers of Mr. Kern, who were insisting that he become a candidate. He had made up his mind definitely that he would not. Aside from the unattractiveness of the political prospects he had personal reasons for preferring to stay out. But with the announcement of Burke, who was not popular with the "organization," and the resulting necessity for an early challenge of his candidacy, the forces at that time predominate in the Democratic party in the state centered with practical unanimity upon Kern.

On the evening of May 15 *The Indianapolis News* carried the item that "Last night influential Democrats were in conference at the home of Samuel E. Morss, editor of *The Sentinel*, until after midnight, and it is taken for granted that they were discussing the platform on which Kern will conduct his campaign."

It was not the first time that newspapers have misinterpreted the purpose of a conference of poli-



KERN'S SPEAKING POSTURE

Taken while addressing the people at the monument, Indianapolis, by
Leslie Nagley, staff photographer, *Indianapolis Times*

ticians. Mr. Morss, who aspired to be something of a Warrick, and whose ability and prestige as the editor of the state organ of his party gave him considerable influence in party councils determined to force the issue upon Kern, and with that in view he invited about twenty prominent party leaders to a dinner at his home. Among those invited was Mr. Kern. The victim of the dinner tenaciously held out against the insistence of his friends, until toward midnight he was being charged with being a party ingrate for his refusal to respond to the demand. It had been the hope of Mr. Morss that a formal announcement could be prepared that night for *The Sentinel* of the following morning, but it was not until the party broke up and Mr. Kern had been followed into the street with importunities that he finally agreed to be a candidate. It was then too late to prepare a formal announcement, but the wily Morss, in probable fear of a recantation on the morrow, took the precaution to announce in the paper the next morning that "in answer to a direct question," Mr. Kern had said that he would be a candidate. On the following day he did prepare a short formal statement announcing his candidacy.

The contest for the nomination was one-sided. All the organization forces were with Kern. He and Burke attended a number of county conventions, and the latter made many warm admirers by the remark-

able eloquence with which he assailed the imperialism of the hour. Mr. Kern found himself in the position of being "the machine candidate" and had to stand the brunt of that. At the eleventh hour, with all the delegates in Indianapolis and a large part of them crowded into the corridors of the Grand Hotel, a new element was injected into the situation, when Benjamin F. Shively, who had been the nominee in 1896, entered the lobby and was greeted with great enthusiasm. He had made a brilliant canvass four years before. A man of imposing presence, tall and slender, and dressed that night in a light gray suit which served to accentuate his physical advantages, it is not surprising that his appearance carried with it the suggestion of a third candidate. The fact that he went to his room immediately and into conference and refused to be interviewed gave color to the rumors afloat that he would be a candidate. This was set at rest, however, on the morrow, when the chairman of the convention read a letter from Shively positively removing himself from consideration. It required one ballot to nominate and Kern was an easy victor. It was in moving that the nomination be made unanimous that Burke thrilled the convention with what was perhaps the most moving bit of oratory ever heard in Indiana.

It is needless here to review the campaign which followed. It began with imperialism, the paramount

issue following Mr. Bryan's remarkable arraignment in his speech of acceptance at Indianapolis, but other issues such as the tariff and the trusts soon entered, and throughout the campaign Kern discussed them all together with state issues that now have no historic interest. The only incident of special interest was the attempt of the Republican papers to create divisions in the Democracy by circulating the report that the friends of Kern were engaged in an effort to trade off Bryan for him. This, of course, was a peculiarly mean and malicious falsehood and was denounced by Kern as "an atrocious lie." It is true that Kern did run a little ahead of the national ticket, but this was due to local conditions, personal friendships, and the fact that some conservative Democrats who had left the party in 1896 and did not vote the national ticket in 1900 voted for Kern. The entire ticket was defeated—Kern had made his sacrifice and it was not to be his last.

II

Before describing Mr. Kern's second race for governor in 1904 it is necessary to a proper appreciation of his political character to refer to a few events of the intervening four years, one of which served to definitely fix his political status not only in Indiana but in the nation. While his tendencies had always been progressive and his instincts had always im-

pelled him to battle for the under dog, we have seen that the startling, revolutionary incidents of the national convention of 1896 had momentarily threatened to divert him from his natural course. He had not comprehended instantly the momentous meaning of that revolution. And while his party loyalty had never wavered he had been ranked among Indiana politicians as a conservative. He had become a warm supporter of Mr. Bryan before the campaign of 1900, but henceforth he was to burn all bridges behind him and stand forth quite frankly not only as a progressive, but as a radical. In doing so, however, he was inclined at all times to hold forth the olive branch to those who had left the party in 1896.

In the December following the election he was given an opportunity to develop his point of view, and under circumstances calculated to attract national attention. It was the occasion of the annual dinner given by the Jefferson Club of Lincoln, Nebraska, to Mr. Bryan, an event of the greatest political significance. While several speakers of national prominence were on the program, "the eloquent and stalwart Democratic leader of Indiana," as he was described by *The Omaha World-Herald*, was easily the feature of the evening aside from the guest of honor. By attending the dinner he had conclusively cast his political fortunes with that of the great Commoner, and in his speech of this occasion he left no

doubt as to his position. Beginning with a reference to the natural conservatism of the Indiana Democracy and the policy of Hendricks to always conciliate party differences when it could be done without a compromise of principles, he continued:

“But while the Democratic party of Indiana is still the conservative party it was in the days of Hendricks, ready now as then to strive to find common ground upon which all Democrats who believe in constitutional government may stand in coming conflicts, it is to-day holding no parley with deserters. Its ears are closed against words of advice gratuitously offered by alleged Democrats who vote the Republican ticket, or by those who in the struggle of 1900 withheld both voice and vote from the cause of the people and could see in that mighty contest only ‘a painful and distressing situation.’

“During the next four years the best thought and most conscientious effort of Democratic leadership should be exerted to bring about complete harmony within our ranks, and a perfect union of all forces opposed to the revolutionary schemes of the party in power.

“In this intervening period the work of organization and education should not be neglected, but should be carried on in every precinct of the union. There is no occasion for crimination or recrimination as between Democrats, but there should always be a generous and patriotic rivalry as to who will render the most effective service in the work of build-

ing up the party organization and strengthening the party lines for the coming conflict."

Referring then in terms of commendation of the action of men like Olney, Cockran and Watterson in returning to the party in the campaign of 1900, he continued:

"And these men, and all others who had faltered in the campaign of 1896 because of economic questions involved, received a most royal welcome on their return to the Democratic household. It is in no spirit of bitterness that I add that there were a few men, once prominent in the Democratic ranks, who in the midst of all the stirring scenes of this mighty contest remained unmoved and silent, except that now and then they took occasion to furnish aid and comfort to the enemy by making public denial that they were in sympathy with the cause of the people. For the sake of the future welfare of the party I shall attempt no harsh criticism of the course of these gentlemen, but I will not forbear saying here and everywhere that alleged Democrats who could not afford to stand with Bryan, Cockran and Watterson in a contest between imperialism and republicanism, between tariff for revenue and protection, between monopoly and the people, and between plutocracy and democracy, need not be surprised if any gratuitous counsel which they may seek to thrust upon the millions of loyal Democrats who fought the good fight and kept the faith shall fall upon reluctant ears."

Continuing he predicted that the fight in 1904 would be based upon the demand "that the encroachments of the great financial and industrial monopolies upon the rights of the people shall cease and that legislation shall be enacted that will strip them of the power to control the political destiny of the nation." He followed this with a bitter denunciation of these powerful interests for their brazen resort to coercion and intimidation in both the campaigns of 1896 and 1900, and concluded with a tribute to Mr. Bryan which carried a prophecy:

"I want to say to all men who are interesting themselves in party organization or reorganization that any attempt in any quarter, at any time, to belittle the splendid and heroic service rendered in 1896 and 1900 by that magnificent leader and tribune of the people—William Jennings Bryan—or to cast stigma or reproach upon him, in any degree, however slight, will meet with stern and quick rebuke from the millions of Democrats who followed his banner in those memorable contests."

The speech of Kern aroused his hearers to a high pitch of enthusiasm, and called forth comment and speculation in political circles over the country. The Washington correspondent of *The Indianapolis Journal* interpreted the speech to mean that the speaker "has been selected by Colonel Bryan as his choice for the presidential nomination in 1904," and

said "Kern must now be reckoned among the possible candidates for the presidential nomination four years hence."

One thing the speech did do—it put Kern to the fore, in the minds of the masses, as the chief lieutenant of Mr. Bryan in Indiana, and he was destined to hold this position until his death. It thoroughly established him in the leadership of the masses of the party, and when the state convention met in 1902 he was chosen to deliver the "keynote" speech. This address, harmonizing in spirit with that at Lincoln, dealt with the problems of imperialism, the destruction of the Boer republics through the connivance of the national administration, the ship subsidy measure for which Senator Fairbanks, a candidate for re-election, had voted, the Dingley law and the trusts. It was in this speech that he touched upon one of the scandals of the Spanish-American war—the wholesale distribution of officers' commissions among the sons of the rich and the politically influential without regard to qualification. Fifteen years later and in private conversation I heard him discussing this scandal and in language indicative of the sincerity of his disgust. After referring in his speech to an attempt by the son of an Indiana millionaire, who had been thus honored and had afterward left the Democratic party, he said:

"I reflected as I listened to his tirade, delivered with all the zeal of a new convert and the malice of an apostate, that the Democratic party is the soldiers' truest friend; that when the war with Spain was inaugurated the Democratic party believed that the soldiers who for years had served their country and endured the hardships of drill and camp life on the frontier, looking forward to a promotion—the soldiers' only reward of merit—should receive the commissions of captain and lieutenant, which were about to be distributed with a lavish hand. Those brave boys had waited long and served their country faithfully, and now hopefully looked for recognition, but while they were in the trenches and on the march a force in the rear was at work against them. The sons of millionaires, senators and congressmen—men with a political pull, who had never seen an hour of military service, were preferred, and received the commissions, and the soldier boys waited on, and in the ranks, fought on and won new glory and honor for their country."

This speech was published as a campaign document and scattered broadcast over the state. On the stump that fall Mr. Kern participated in his sixteenth campaign, in demand all over the state. No Democrat stood higher in Indiana; no Indiana Democrat stood so high in party circles in the country. Such was his political status when the forces began to line up for the campaign of 1904.

III

In the late winter of 1903 there was a general feeling of optimism among Democrats everywhere. The greater portion of the men who had left the party in 1896 had returned to the fold. The bitterness incidental to their leaving had been mellowed by time. Mr. Roosevelt, who had succeeded to the Presidency on the assassination of McKinley, had never been popular with the working forces of his party, and in the rôle of the proverbial bull in the china shop he was keeping business in such a state of constant agitation that there was a general feeling that this element, which had been the most potential enemy of the Democratic party in the two previous presidential campaigns, would take revenge upon him by throwing its influence to the Democracy. Mr. Bryan had made it clear that he would not be a candidate, thus leaving the field clear for other men. Acting upon the theory that a man unknown in national politics would probably possess more strength than one with a record to defend, and that this man should be found in the state of New York, an organization was perfected to urge the nomination of Alton B. Parker, an able lawyer, with an unblemished political career, and a distinguished record as a jurist. The majority of the Indiana leaders took kindly to the suggestion, even the venerable David Turpie breaking his rule of silence to bestow upon it his

hearty commendation. The candidacy of Judge Parker made a personal appeal to Mr. Kern. While in Europe in 1895 he had stopped for some time at the same hotel in London where the New York lawyer was staying, and a personal friendship had resulted which had been strengthened by occasional meetings in the nine years intervening. Thus it was that he had become a strong partisan of the Parker candidacy.

But Judge Parker was not to have the Indiana delegation without a contest. William Randolph Hearst, the journalist, and a multi-millionaire, became a candidate and immediately set to work with the liberal use of money to build up a strong organization in every state. Perhaps we shall never know how much was spent, but if as much money was expended elsewhere as in Indiana a liberal fortune was squandered. At no time did Mr. Bryan manifest the slightest interest in Hearst's candidacy, and it was well known that he looked with considerable distrust upon the sincerity of the editor's progressive protestations. He was able to appeal, however, to many locally influential Democrats who were attracted by his radicalism, and had not failed to be impressed with the support given Mr. Bryan in his papers at a time when few metropolitan papers were not picturing the Nebraskan as an anarchist and a repudiationist. These sincere men—and among

them were many who were then and afterward among Mr. Kern's most valued personal and political friends—were augmented by the sordid and disreputable element of the larger centers of population. Agents authorized to spend money lavishly were sent out over the state to capture the delegations to the state convention that was to meet in May for the exclusive purpose of electing delegates to the national convention. The result was the creation of an intense feeling.

In the state delegate convention the contest was bitter, the speakers on both sides being interrupted with jeers and insults. Mr. Kern, who had taken a positive position for Parker, while addressing the convention in his behalf, was interrupted with the threat—"You need never ask for anything again." Thoroughly aroused, he replied that "threats like that from men higher up in the Hearst crowd have been made, but I have no fear of Hearst or the Hearst papers." The convention resulted in the selection of a Parker delegation, but the contest left behind some bitter scars. The prospects of the party in Indiana had been compromised.

This might have been smoothed over before the election but for the incidents in the national convention, the insulting attitude toward Mr. Bryan, the advertisement of the rejection of all his suggestions, the blatant anti-Bryan attitude of some of the Parker

forces, and all climaxed by the telegram of Judge Parker after his nomination declaring that he would run only with the distinct understanding that he stood for the gold standard. No Indiana Democrat will ever forget the stunning effect of that telegram when it was flashed upon the bulletins. It practically assured the state to the Republicans, for it was interpreted by the rank and file of Mr. Bryan's followers as a direct insult to their idol.

Such was the situation, misunderstood by few, as the convention approached in August for the nomination of a state ticket. The dearth of aspirants for places on the ticket told the story. No one expressed the slightest desire for the gubernatorial nomination, and again, as had come to be its wont, the party turned to Kern.

To all such suggestions he gave a stern denial—and yet he finally agreed to make his second sacrifice. It was the fashion among his enemies during his lifetime to refer to Mr. Kern as a persistent office seeker, a “perpetual candidate,” when, as a matter of historic truth, he seldom sought a nomination and in most instances was forced by tremendous pressure from his party to accept nominations his judgment warned him against.

He became a candidate for governor in 1904 on the earnest personal request of Judge Parker, the presidential nominee of his party.

Having always understood this to be the case, I personally appealed to Judge Parker for the facts, and the following letter to me definitely settles the matter :

“My first acquaintance with John Kern began in London in 1895. We both happened to be stopping at the same hotel, and, as we knew about each other, we soon came together and formed a friendship that I always treasured.

“The story that you have heard from time to time, as you stated, that I requested Mr. Kern to accept the nomination for governor of Indiana in 1904 is quite true. But I did this only after seeing quite a number of the leading Democrats of the state. Without exception, these men said that Mr. Kern would be the very strongest man that the party could nominate. But some of them, and I think it is no exaggeration to say that all of them were of the opinion that he would much prefer not to make the race. Reaching the conclusion that his nomination would strengthen the party in the state, I telegraphed him, asking him to visit me, which he did, at my home. After discussing the party situation in the state with him, as I had with many others from the state, I told him that without exception every man I had seen from Indiana had said that he would be the strongest nominee that the party could find, and hence I ventured to urge him to accept the nomination if the convention should, as I believed it would, tender it to him unanimously. The result you know.”

Having responded to the personal request, which as a good party man he considered a command from the commanding officer of his party in that campaign, Mr. Kern plunged into the campaign with his usual zeal and made a thorough canvass of the state. The extent of the Republican landslide that year is a matter of history. Kern had made his second sacrifice.

CHAPTER VIII

EUROPE AND ASHEVILLE: AN INTERLUDE

I

IN July, 1906, feeling the need of rest and relaxation, Mr. Kern, accompanied by Alonzo Green Smith, formerly attorney-general of Indiana, sailed from New York for a few weeks of meandering and sightseeing in the British Isles. It would be hard to imagine a more incongruous couple for an European jaunt. The ex-attorney-general was an able lawyer of much strength of character, a rough diamond accused by his enemies of "practicing law with a club." More interested in law and politics than in scenery and shrines, more practical than sentimental, to him that scenery which would not yield a harvest was uninteresting waste land, and the building of venerable years and rich in history could not compare with a New York sky-scraper with its modern conveniences. The travelers were fond of one another, but they were soon to find that nature had never intended that they should tour Europe together.

As both were traveling for their health, they took a slow, ten-day boat, leaving New York harbor on July 21st and reaching Glasgow on the last day of the month. The trip over was uneventful and pleasant enough, although they were five days in a fog and two on a rough sea. They had seats at the cap-

tain's table, made many friends on board, and Kern records in a letter that "Green didn't enjoy the rough sea or the fog, but didn't grumble much and became quite a favorite on board. He won't admit it, but his cough is much better and he is greatly improved." It was characteristic of Kern to write home the moment he landed. "It seems an age since I saw you," he wrote the morning of his landing, "I am writing this hurriedly and am going out to send a cable, which you will get by your breakfast time." Later the same day he wrote his second letter home, giving more particulars of the voyage and relating how he had not thought of "getting sunburned with the sun shining through the fog until I found my nose and face blistered and looking like an old bloat," how he "got some cold cream from an old lady on board," how in a rough sea he was thrown from his chair and slid down to the rail. "I am getting along very well with Mr. Smith," he writes, as though surprised. "He is quite willing to do as I suggest and has thus far been as docile as a child, except on one or two occasions, when he got to talking politics, when he partly startled the whales and the other monsters of the deep." Unhappily for the peace of the moment, but fortunately for future reminiscences, this docility was not to last long.

They lingered for more than two weeks in Scotland visiting the birthplace of Burns and the country

associated with his life, riding across Lake Lomore and Lake Katrine, the scene of *The Lady of the Lake*, and journeying through the "Trossacks" by Sterling and on to Edinburgh.

His love of home shines out in an incident at Lake Katrine, where he waited for the boat to carry him across. "It came," he wrote, "bringing a lot of tourists who were traveling through the Trossacks in the opposite direction. As I was rushing down to the boat I ran right into Rev. M. L. Haines (First Presbyterian Church at Indianapolis), who was rushing up the hill for dear life to get seats on the big brake wagon which was waiting at the hotel. He looked around and grabbed me by the hand, but we hadn't time for a word. There was his wagon and my boat both waiting and we both rushed on. The wagon and boat, however, were not more than seventy-five yards apart, and we spent the several minutes that elapsed before the wagon started by standing up and waving and making all kinds of friendly signs at each other. There were two ladies with him, but I did not see them until they got up in the wagon with him and joined in the waving. It was like ships passing in the night, but Brother Haines looked awfully good to me just the same." He was delighted with the beauty and the historic charm of Edinburgh. While passing through Holyrood Palace and looking at the bed in which Mary, Queen of the Scots slept, he was

accosted by another Hoosier he had never met but who recognized him. By this time the docility of Smith had passed. He grumbled over the foolishness of tramping about looking at old palaces where dead queens had slept, and at tumble-down shacks in which poets had penned immortal lines. At length, patient though he was, Kern issued his declaration of independence. "Now don't you pay any attention to my movements in a town or on the trip," he said, "we haven't time to argue and we are not here for argument. I am going just where I please and in the way I please and I want you to do the same." The result was that Smith thereafter spent hours in his room at the hotel writing long letters about places he had not seen, and the remainder in regaling the natives with lurid stories of the greatness of America. "I overheard him," Kern wrote, "telling the other day how a calf had been carried over two hundred miles in a cyclone."

The travelers went up to London on August 16th, where they went their separate ways, meeting in the evening, and not bothering each other with a recital of their doings of the day. The ancient city fascinated Kern as it had ten years before. I am indebted to Thomas R. Shipp of Washington and Indianapolis for an incident which is interesting in that it again reflects Kern's love of home and home folks:

"When mother and I were in England we happened to be lunching with Mr. and Mrs. Henry Rauh of Indianapolis in a little café opposite Windsor Castle, when suddenly from an unnoticed alcove came a deep voice, saying, 'Has anybody seen anything of Henry Rauh and Tom Shipp?' Upon investigating we found it was Mr. Kern, who was taking a quiet lunch with Alonzo Green Smith. Nothing would do Mr. Kern but that we all should meet him that evening in the Hotel Victoria, where he promised an Indiana party.

"On arriving at the hotel that evening we found that in some unaccountable manner Mr. Kern had rounded up ten Hoosiers, whom, it seemed, he had run into at different times and places in England. Mr. Kern furnished the refreshments generously and soon there was created a 'Banks of the Wabash' atmosphere in Ol' Lunnon. Most of the inimitable stories he told were jokes on himself and good-natured jests about English manners and customs. I wish I could remember some of these, but my recollection is only of a most unusual and pleasant Indiana evening in a far-away country, provided by a gentle and genial man, who thought enough of his Indiana friends to keep track of them even in the great city of London."

On leaving London the travelers went to Liverpool and thence to Dublin and then on to the Lakes of Killarney, where they spent three days. Then on to Cork, back to Dublin, then on to Belfast, the

Giant's Causeway, Londonderry, and finally to Movelle, where they took passage on the Columbia, a slow steamer, for home.

Some of Kern's most amusing stories of the trip that he loved to tell in later years were drawn from experiences in Ireland.

While the travelers were going through the Killybegs country in a jaunting car drawn by an old horse that made frequent pauses until prodded by the driver, it occurred to Kern to play a joke on Smith, who had not failed to observe, especially in England, a tendency to make the tourists pay. Leaning close to the ex-attorney-general, Kern whispered, "Do you notice how often this horse stops?"

"Yes. What's the trouble?" Smith asked, instantly suspicious.

"We are paying by the hour," whispered Kern, wickedly.

"Just watch me stop that," growled Smith.

A moment later the horse again stopped to rest.

"What kind of a horse is that?" roared the ex-attorney-general.

"It's a scan'ry horse," answered the driver in soft tones.

"And what kind of horse is that?" demanded Smith.

"It's a horse that stops before a beautiful piece of scan'ry when the tourist ain't got the sense to appre-

ciate it," sweetly replied the driver without looking around.

The travelers sailed on August 25th, reaching New York ten days later, much refreshed but without having received the physical benefits expected.

II

A few weeks later Kern plunged into the campaign of 1906 with his usual vigor, contracting a cold which his weakened physical condition made it impossible for his system to throw off. He began to lose weight, his voice became chronically husky, and after a thorough examination his physician whispered the ominous word—tuberculosis in its incipency. But with his usual determination he prepared to battle for his life. He had devoted too much of his time to his political activities to have accumulated money, and at the age of fifty-seven his determination to get well, strengthened by his passionate desire to be of further service to his boys of six and seven, he set out for Dr. Von Ruck's sanatorium at Asheville, North Carolina, about three weeks before Christmas. His letters of that period reflect his intense love for his family. All thought of worldly honors were put aside and his one hope was to be spared for a few years more with his wife and children and in their service. A separation even under less unhappy circumstances was always hard, and it was with a heavy

heart that he resigned himself to the inevitable exile. As Christmas approached the pain of the separation was accentuated by the knowledge that he could not share in the home festivities. The day after Christmas he wrote home:

"On yesterday afternoon I received the box and was greatly rejoiced to have the pictures of you all and to have your several letters. The book was pleasing, the cigars good, and the trousers welcome. Christmas passed off all right and we had a great dinner. I send you a menu card. You mustn't think we have that sort of a meal every day, but we do pretty well—get plenty of eggs and milk, corn bread and buttermilk. On Christmas evening the young people here—patients—turned themselves loose, singing, playing and raising Cain, and you wouldn't have thought this much of a hospital. Yesterday was a beautiful day. I was out most of the time. . . . I had a long letter from Judge Hackney. It was full of sympathy and affectionate in character and I was deeply touched by it. Also had a similar letter from my old friend, Dan Simms of Lafayette. Had Julia's letter and enjoyed it very much. I have your pictures ranged around my room, so that it looks a good deal like home.

"It is cloudy to-day but pleasant. I walked a long ways this morning, and am going for another walk this evening. . . . I am anxious to hear how you got along on Christmas, and whether my dear little ones were pleased with what Santa Claus did for them. I am uneasy to hear of dear little Billy's continued

sickness with cold. Don't you think you had better consult a doctor about him? It seems too bad to keep him in the house all winter. I am getting to be a great believer in fresh air, and I can't believe that it is good for a child as full of life as he is to keep him in a hot room all winter. Let him have fresh air and sunshine whenever possible.

"I am feeling very well to-day and the doctors say I am doing nicely, though they can't give me much definite information yet. I have the same routine every day, and while it is a little monotonous sometimes the time slips by pretty rapidly. I am glad Christmas is over, and hope that next Christmas we may all be together and be well. It will be a happy day for me when I can be with my dear ones again, and be strong enough to work and make up for all this lost time. Tell John, Jr., that I enjoy his letters very much. He writes just like a man. I know I am going to be very proud of him. Tell Billy that he doesn't write quite as plainly as John, but that I read his letter over and over again just the same. With lots of love for all of you, I am, as always, your husband, papa, father and daddy."

During the three months that he was there he endeared himself to all who came in contact with him by the sweetness of his disposition, and even the physicians were impressed with his reluctance to being a burden to them. He passed his time following the doctor's instructions. He read much light literature from the library of the sanatorium and wrote

long letters home, not forgetting individual letters for the children. His rare gift of entering into the thoughts of childhood is illustrated in his letters to John, Jr.

“MY DEAR LITTLE MAN:

“Your nice letter came this morning—also mother’s postcard telling me how nicely Billy was doing. It made me feel mighty good to hear that Billy was feeling so well after his operation, and to see what a fine letter you can write, and how well you are doing at school. I know you will be a good boy and help mother all you can while I am away. You must pay lots of attention to dear little Billy while he is sick, and help entertain him. You must also watch sister, and not let her run around too much and stay up late at night. Tell mother she must take good care of herself and not get sick, for we can’t afford to have more than two sick at one time.

“I am getting better, but it will be some time before I can come home. But I get very homesick and want to see you all so badly I hardly know what to do. The weather is still warm and sunshiny. I wish you were here to go walking with me over the hills and through the woods. We would have a good time. They have a lot of turkeys and chickens on the grounds here. Yesterday a turkey gobbler and a rooster got to fighting, and they had a great time. Then afterward the rooster came around where the turkeys were and four big gobblers got after him and got him down, and were about to kill him when

some of the boys drove him away. Then the rooster got up and crowed just as if he had whipped them all. . . . I had a letter from Judge Anderson this morning saying that my cases in his court could wait until I got home to be tried. I must close now to get this in the mail. Tell mother and sister and Billy that I love them very much. You know that I love you, don't you? You must write as often as you can and take care of things while I am away. With lots of love, I am, your

FATHER."

During his Asheville days Mr. Kern spent every moment that he could in the open air and soon developed into a great pedestrian, trudging all alone over the hills and through the woods and into Asheville, where he made friends and renewed old friendships. His appetite returned and he slept well. As he felt his strength returning his anxiety to get back home and in the harness intensified. Toward the middle of February we find him writing in homesick vein to John, Jr.

"MY DEAR LITTLE MAN :

"I had your picture of Hiawatha in her tent, and also the other pictures made by you and I think they are fine. I am very proud of you, and know you are going to be a good boy and a good man. I can't tell you how much I want to see you and dear little Billy and mother and sister. I am very lonesome away down here by myself. But it will only be a few weeks

until I will be at home, and I will be so happy to be with you all.

"I am feeling pretty well this morning. It rained yesterday, but the sun is shining now and that always makes me feel good. You must not let Billy forget his daddy. I expect you will both be grown so I will hardly know you. Kiss mother and sister and Billy for me, and then make them kiss you for your father."

In March he left the sanitorium and went home for a visit, without being dismissed, and did not return until his last illness ten years later. The separation under such tragic circumstances had served to draw him even closer to his home and family, and it is probable when he crossed the threshold of his home on that March day in 1907 it was with the determination to put behind him political aspirations and to conserve his strength for the service of those dependent on him. Little could he have thought at the time that in scarcely more than a year he would be again drawn into the vortex of intense political activity, and that his career as a national figure was just in the dawning.

CHAPTER IX

RUNNING WITH BRYAN

I

LONG before the Denver convention in 1908 speculation was rife in political circles as to the possibility of the nomination of Mr. Kern for the vice-presidency. The nomination of Mr. Bryan for the third time for the presidency had been a foregone conclusion since the disastrous experiment of returning to "conservatism" in 1904, and the intimacy of the personal relations between The Commoner and Mr. Kern gave color to the rumors. There were many who really thought that the Nebraskan had selected the Indiana leader as a running mate as much as a year before. All this was purely speculative and without any color of justification, but it served to keep Mr. Kern's name in the mind of the leaders throughout the country. To all suggestions that he permit the presentation of his name to the convention he had invariably made dissent. He was not unmindful of the distinction, and his personal affection and admiration for the leader of the Democracy made the idea of being associated with him in a great national campaign enticing. But there were sufficient reasons for his desire to escape the responsibility that would entail. Scarcely more than a year before he had gone to Asheville in a seri-

ous physical condition and not at all certain of his ability to successfully combat the tubercular trouble that threatened an early termination of his career. He had recuperated with unexpected rapidity and had left the sanatorium apparently out of danger, but he and his family and intimate friends had grave doubts of his ability to pass through the ordeal of a speaking campaign over the country, with all that would mean of exposure, physical exhaustion and mental worry. Some time before the convention he had confided to one of his friends that but for his physical condition and his lack of means he would be tempted to encourage the canvassing of his availability because of what it would mean to his children. About that time he publicly laughed at the suggestion of his possible nomination, and in the presence of Mr. Bryan. It was on the occasion of a dinner of the Indiana Democratic Club at Claypool Hotel in Indianapolis. John E. Hollet, president of the club, had expressed the hope that he might be selected as Mr. Bryan's running mate, and Kern in speaking afterward referred facetiously to the suggestion with a reminder of his poverty and the necessity, in the event of his nomination and election, of being forced to "live in one room." In following, Mr. Bryan created much enthusiasm among Kern's friends and neighbors by saying that "if John is elected he will not have to live in one room, for I will give him a

part of the White House." This good-natured compliment was immediately given undue significance, and from that hour the Indiana Democracy determined, if conditions were at all auspicious to press the availability of Kern upon the convention. There was no formal indorsement by the convention, but the contingent of Democrats who turned their faces toward Denver did so with the fixed determination to take advantage of any proper opportunity to secure his nomination.

When Mr. Kern himself started to Denver it was with the definite decision to discourage any movement in his behalf. When he reached Chicago and found that the politicians of other states had been giving serious consideration to his claims he thought it well to publicly make his position clear. This he did in a letter to *The Indianapolis News*, the substance of which was carried by the press associations throughout the country.

"EDITOR OF THE NEWS:

"Sir—I am not, have never been, and will not be a candidate for the vice-presidential nomination. For personal reasons involving matters of business and health, I do not want the office and made this plain to my friends long ago.

"My name will not be presented to the convention at Denver if I can prevent it, and I think I can.

"I make this statement for the benefit of my

friends, who may be misled by newspaper reports, which persist in making me a candidate against my will.

JOHN W. KERN.

"Chicago, July 1."

As one of the delegates to the convention accompanying Mr. Kern to Denver I know that during the long journey, during which the party was constantly together and discussing the probable results of the convention the name of the Indiana leader was not discussed, if so much as mentioned, in connection with the vice-presidency. John E. Lamb, who, after Kern and Taggart, was the most potential and widely known man on the delegation, had for months accepted the latter's statement that he was not in condition, physically or financially to make the race. Among the members of the party the hope may have been expressed that Indiana would be given a place on the ticket, but never in the presence of the man all had in mind.

The Kern party arrived at Lincoln, where it had been planned to stop over for a conference with Mr. Bryan in the early morning and went to bed at once at the Lincoln Hotel. It was a dismal night of rain, and in the morning the rain was pouring down in torrents.

There was just one occasion during Mr. Kern's visit to Lincoln when he might have discussed the vice-presidency with Mr. Bryan. Soon after the lat-

ter's arrival at the hotel he held a conference with Kern and Lamb in the former's room at the Lincoln Hotel, and after a time Mr. Lamb retired, leaving the two men who were destined to be on the ticket together alone. I have satisfied myself that the vice-presidency was not a subject of discussion by appealing to Mr. Bryan, who informs me that he was in no way instrumental in determining the action of the convention on the vice-presidency. "There was no plan for his nomination," he says. "His availability was discussed and it was known that he was of the inner circle of my friends, but I did not attempt to select a running mate." This is important as disproving not only the claim that he dictated the nomination of Mr. Kern but the report that he exerted himself to persuade others to accept the nomination before Kern was selected. Mr. Kern left Lincoln for Denver with no new reason for assuming that he would play any other part in the convention than that of chairman of the Indiana delegation and advocate of a thoroughly progressive platform.

On reaching Denver, however, he found that his was among the half-dozen names most insistently mentioned for the vice-presidency and himself the subject of disconcerting notoriety. From the moment he was lined up at the Denver railway station for a series of snapshots he was not permitted to forget for a moment that an unsought honor might be thrust

upon him. Before the convention had been called to order some impetuous Hoosiers had hung Kern lithographs in the hotel lobbies, and his first interview on his arrival was in the nature of a disclaimer of any designs on the nomination. Before he retired the first night he found himself at a dinner given for Indiana people at the Savoy Hotel converted into a "boom" dinner in his behalf, and this did not escape the keen eye of the press. On the following day the Illinois delegation, which had stopped at Lincoln, arrived with the message that "Kern's nomination would be satisfactory to Bryan," and Willis J. Abbott, described as having charge of publicity work for the Commoner, and fresh from Lincoln, declared in an interview to which many attached significance that "Mr. Bryan thinks a great deal of John W. Kern." If these incidents caused Mr. Kern any concern he did not show it in any way. He threw himself into the preliminary work of the convention with but one object in view—to make certain the adoption of a platform that would be in complete harmony with Mr. Bryan's views. At the time of the fight over the seating of the Guffy delegation from Pennsylvania, which became bitter, he failed to disclose the timidity or "discretion" of a candidate, by going in among the delegations on the floor and urging them to vote against the seating of the delegation of the Standard Oil boss, and in the

pointed manner in which he announced the solid vote of Indiana against it. Even the press commented upon this attitude as calculated to injure his "candidacy" in view of the opinion of some that "something should be done to placate the Guffy element."

During this time he occupied the same room at the Albany Hotel with Mr. Lamb, and it is significant that it was not until the day before the nomination was made that the latter gave any thought to the possibility of his nomination. The two breakfasted, frequently lunched and dined together, but Kern's attitude was such that his companion was persuaded that he would not, under any circumstances, consider the nomination. But during all the time the Indiana contingent was chafing on the bits, eager to begin an aggressive propaganda in his behalf. Meanwhile the convention was completely at sea as to who to nominate. Under these circumstances the Indiana delegation and others from Indiana not on the delegation, such as John W. Holtzman, prevailed upon Kern to relent in his opposition to their wishes to the extent of permitting them to make a canvass of the sentiment of the convention.

Thus on July 9, one day before the convention was to act, the Indiana contingent met at its headquarters at the Albany, and in the absence of Mr. Kern perfected an organization for this purpose. Stokes

Jackson, the state chairman, presided and the writer served as secretary. A committee composed of Holtzman, Representative Lincoln Dixon and Jackson immediately selected committees to visit the delegations of all the states not having a candidate with the view to determining their possible reception of Kern's candidacy. Never has a little group of men set to a task with greater zest or enthusiasm. Never have men on such a mission been more cordially received. While Mr. Kern had expressly forbidden these committees to represent him as a candidate, not a few of his zealous friends disregarded the spirit of the instructions, and their reports were of such a nature that there was no longer any possibility of holding the Hoosiers in check.

On the morning of the day of the nomination the Indianians were called together for the purpose of hearing from Mr. Kern a more precise definition of his position. He appeared with Lincoln Dixon and his manner and appearance indicated that he was deeply moved not only by the possible event of the afternoon, but by the fervency of his friends' support. The customary smile was conspicuously absent and he spoke with deep earnestness and feeling. His speech was brief, but it so perfectly mirrored the spirit of the man, then and always, that it has a proper place here.

"In the first place I want to thank you all for your good wishes and your efforts in my behalf. But my position and yours is the same that it has ever been since we came to Denver. I am not, and have not been a candidate for the vice-presidential nomination, and if there is to be any contest, any balloting at all, my name will not be presented. That is what I wish the position of the Indiana delegation to be, and if you agree with me that is what it will be. Let us forget about it and go home and carry Indiana. God bless you all."

About the time he was uttering these words the leaders from over the country were in conference canvassing the availability of the various men mentioned, and here the Indiana leaders' claims were being urged by John E. Lamb and Thomas Taggart. The conference agreed that the best interest of the party would be served by the nomination of Mr. Kern.

It was a feverish group of Indianians that early sought their seats in the very front of the great convention hall at noon that day. When Alabama was called for nominations she yielded to Indiana, and thus for the first time Thomas Riley Marshall, then the nominee for governor in Indiana and destined to the rare distinction of two elections to the vice-presidency, appeared upon the platform and faced the Democracy of the nation. He had only had a few minutes for reflection, as it was the original in-

tention that Mr. Lamb, whose voice was almost gone, to present the name of Mr. Kern. As the small, wirey figure of the now familiar national leader appeared, there seemed little probability that he could impress the convention in that vast auditorium. There was no doubt on the part of the Hoosiers. Nor was there any doubt on the part of the convention after he had uttered his first sentence. This speech pleased Kern.

In seconding the nomination of Kern, Governor Folk of Missouri described him as a man who was fit to represent the platform and fight beside Bryan. Martin J. Wade of Iowa described him as a "broad-gauged, energetic, faithful, loyal Democrat." Ollie James, speaking for Kentucky, referred to him as "one of the gamest, knightliest and bravest Democrats in the Union." George Fred Williams of Massachusetts spoke of him as "a man absolutely beyond any criticism, whose nomination will arouse the undivided enthusiasm of all the Democrats of the nation." State after state rose to second the nomination of Kern as the enthusiasm of the convention intensified, the loyal Hoosier delegation voiceless from shouting long before the roll call was ended. The names of others were presented, among them the name of Charles A. Towne, who soon caught the drift of the convention and appeared upon the platform and withdrew his name to the end that an acclamation nomination might be made of "that able and

worthy Democratic war horse of Indiana." A motion was soon thereafter made to that effect and Mr. Kern was nominated without a ballot being taken.

II

While the convention was acting Mr. Kern sat alone in his room at the Albany smoking. His first act on learning of his nomination when enthusiastic Hoosier friends burst in upon him was to send a telegram to his family at Indianapolis—"Have just now been nominated. God bless you all." Within a few minutes after the convention acted he began to pay the penalty of the celebrity thrust upon him. The crowds flocked to his room in such numbers that he was finally forced to make his escape to Mr. Taggart's room in the Brown Palace, but almost immediately afterward his hiding place was discovered by Senator Gore and thereafter no further effort was made to find a place of retirement. Among the first telegrams that reached him was the one that meant more perhaps than any other—from Mr. Bryan:

"LINCOLN, NEB., July 10.

"HON. JOHN W. KERN, DENVER, COLO.:

"Accept my warmest congratulations. Your nomination gratifies me very much. We have a splendid platform and I am glad to have a running mate in such complete harmony with the platform. Stop off and see us on your way east.

"WILLIAM JENNINGS BRYAN."

Addressing a delegation of returning Nebraskans soon afterwards, Mr. Bryan said:

"I am sure that when people come to know John W. Kern as I have known him for many years, they will believe, as I do, that he is in perfect harmony with the platform, and can be trusted to carry out that platform to the letter, if circumstances should place upon him the responsibility for its enforcement."

Into his retreat at the Brown Palace the crowds thronged. The newspaper men with their cameras and note books appeared and the candidate, with his customary amiability, submitted to being cross-examined as to the most intimate details of his life. The *Denver Times* was much impressed because Kern did not "talk in the Hoosier dialect"—a puzzle that was solved to its satisfaction by the discovery that his father was a Virginian and he, as a boy, had lived in Iowa. Other papers solemnly assured their readers that he was the original of "The Man From Home" of Booth Tarkington's creation. The nomination of Bryan having been a foregone conclusion, the vice-presidential nominee became the chief topic of conversation, and that night Kern was being discussed almost exclusively by the politicians in hotel lobbies, cafés and upon the streets. An interview on the nomination by as astute an observer as Herbert Quick, of Iowa, gives as accurate an appraisal of the at-

mosphere in which it was made as can be found. "The nomination of Mr. Kern was widely favored," he said, "in my section of the middle west long before the convention. He is regarded as a man whose high character and place of residence would add strength to the ticket. He will not be regarded as an unknown or an accident. I watched the convention as it nominated Kern and mingled in the groups engaged in the preliminary discussions. No one was ever nominated in an atmosphere freer from dicker-ing and trading. The galleries were for Kern and the galleries have a curious faculty of feeling the national pulse."

He remained in Denver for a time so as to reach Lincoln just in time for the meeting of the national committee at Fairview on July 14th, and during the interval was kept busy conferring with party leaders and with social engagements. I was with him on the train on the return trip as far as Lincoln and had an opportunity to note the effect the new celebrity had upon him. If anything, and if possible, he was even more democratic, genuinely democratic, in his manner, and a trifle subdued, as though he felt the responsibility that would fall to him in meeting his share of the burdens of the campaign. The night his party left Denver he stayed up late keeping his companions in mirthful mood with a seemingly interminable string of stories gleaned from his own experi-

ences. It was on the train that he first had an opportunity to read the Indianapolis papers and learn of the joy and jubilation of his friends and neighbors of both parties and of the plans of his old Kokomo friends to tender him a great reception. These things seemed to touch him more than the honor of the nomination.

Again he reached Lincoln in the night, this time at three o'clock in the morning, but this time he was met by a delegation of citizens and taken to the hotel. Before he was up in the morning a large crowd was at the hotel to greet him, and for a time, as the press put it, "the town went Kern mad."

About noon on the day of his arrival he went to Fairview on the car, receiving ovations along the way, and he remained at the home of Mr. Bryan through the afternoon meeting party leaders. During that afternoon, too, in a campaign conference with Mr. Bryan, a plan was determined upon that was destined to make the Bryan and Kern campaign of 1908 memorable and of vital importance to the nation regardless of the result of the election, for it was then decided to pledge the party to giving publicity to campaign contributions before the election, and to limit the amount that could be subscribed by any one party.

On the following day when the members of the national committee had been called to order at Fair-

view, Mr. Bryan, when called upon, referring to Mr. Kern in the course of his brief speech, said:

"I desire to express . . . my gratitude that a candidate for vice-president has been selected who is not only a political friend and a personal friend, but one in whom I have entire confidence (applause). I do not know how I can better express my feeling on the subject than to say that if I am elected president and Mr. Kern is elected vice-president, I shall not be afraid to die, because I shall feel that the policies outlined in the platform, which I shall endeavor to put into operation, will be just as faithfully carried out by him as they would be by me." (Applause.)

Mr. Bryan then presented his history-making proposal which had been discussed by him with Mr. Kern the previous afternoon:

"We suggest for your approval a maximum of \$10,000 and a minimum of \$100, no contribution to be received above \$10,000 and all contributions above \$100 to be made public before the election.

"We suggest, also, that on or before the 15th day of October, publication shall be made of all contributions above \$100 received up to that date; that after the 15th of October publication shall be made of such contributions on the day that the same are received, and that no contribution above \$100 shall be accepted within three days of the election.

"With the hope that these suggestions may be favorably acted upon, we are, with great respect, etc.,

"Yours truly,

"WILLIAM JENNINGS BRYAN,

"JOHN W. KERN."

Thus the first act of Mr. Kern as a candidate was to affix his signature to a proposal destined, after much controversy and sophisticated efforts to escape, to be written into the law of the land. After Mr. Kern had spoken briefly, a resolution embodying the ideas of the proposal was submitted by Josephus Daniels of North Carolina and unanimously adopted. History was made at Fairview that afternoon. An issue of such vital moment was then made that it would not down. And the issue was all the more direct because a Republican congress had just refused to enact a publicity law, the Republican national convention had refused to incorporate in its platform a provision for one, and the announcement of the Fairview plan was at first ridiculed by the reactionary press of the country. But the issue was so clear that it could not be scoffed from the boards. Mr. Taft tried to meet it by reforming on his original selection of a treasurer of his campaign committee, and that, failing to satisfy the independent press, he tried to offset the Fairview program with a proposal of publicity of contributions after the election. This

was so manifestly absurd that it failed utterly to satisfy, notwithstanding President Roosevelt's remarkable advocacy of the proposal of Taft to lock the stable after the horse was stolen. The impression made by the plan outlined at the conference between Bryan and Kern at Fairview that afternoon was so pronounced that the popular demand for a law of that character persisted, and finally under the administration of Mr. Taft, who had opposed it, it was written into law at the behest of an overwhelming public opinion. That incident alone, aside from the platform, makes the Bryan-Kern campaign of 1908 one of vital value to the institutions of America.

On the evening of the day of the adoption of this resolution, Mr. Kern and his party turned their faces toward home—and here he was to partake of the sweets of his triumph.

III

Mr. Kern knew, through the press, that his friends and neighbors were taking the keenest delight in the honor that had been shown him. On the night of the nomination great crowds of cheering men, headed by a band, waving flags, burning red fire, and singing patriotic songs, had been quickly improvised with the view to serenading the family of the candidate. Stopping on the way to cheer in front of the Columbia club, the Republican organization, and to



JOHN H. KERN, JR.

MRS. KERN

WILLIAM C. KERN

serenade the newspapers, it had gone rollicking to the Kern residence, where Mrs. Kern greeted the enthusiasts from the porch, and Judge Gavin had responded in her behalf. Returning it paused at the home of Vice-President Fairbanks, who appeared and briefly paid tribute to Kern the man and neighbor. "There is no better man in the city of Indianapolis or in the state of Indiana than John W. Kern," he said, and the crowd, with "three cheers for Fairbanks," passed on to pause again at the home of the venerable former Senator David Turpie, who was too feeble to appear but sent assurances of his participation in the common joy. The Indianapolis press, regardless of politics, editorially joined in the general jubilation. Four years before when a similar reception had been given Mr. Fairbanks, Mr. Kern had presided, and at that time the former had predicted that he would one day serve as chairman of such a meeting to greet Kern. The arrangements were made accordingly.

There was something in this reception so significant of the affection of his fellow citizens, and something in Mr. Kern's attitude toward it so characteristic of the man that it deserves more than a mere reference. When the train stopped to permit his party to alight at Capitol avenue he was met by a delegation representing the civic bodies of the community, a large crowd of citizens, and a band play-

ing "When Johnny Comes Marching Home Again," Vice-President Fairbanks was the first to grasp his hand. He was followed by Mayor Bookwalter, also a Republican, and the two escorted the nominee to his carriage. The procession moved through cheering crowds to where Mrs. Kern and the family were waiting to receive him. As the home of the nominee was approached the streets were packed, and houses of Democrats and Republicans alike were hung with bunting and brightened with flags, while a streamer stretched across the street announced a "Welcome by Your Neighbors." As Mr. Kern, bearing his two boys in his arms, ascended the steps of his home any one who knew the heart of the man could appreciate the emotions with which he faced his fellow citizens.

"Sometimes I can talk," he said to the crowd, "but this is not one of the times. On some other occasion I shall tell you all how glad I am to see you, but for reasons that must be obvious to you all I can not speak now."

That evening it was the carriage of Vice-President Fairbanks that called to convey Mr. Kern to the court house yard, where a platform had been erected and where the formal home welcome was to be given. Here fully 15,000 people had assembled when Mr. Fairbanks assumed charge of the meeting. In the course of a generous address the vice-president re-

ferred to Kern's "ability as a lawyer, eminence as an orator, integrity as a man, uprightness as a neighbor, and admirable life within the sacred circle of home."

Seldom has a more remarkable ovation ever been accorded any man within the confines of Indiana than that which greeted Mr. Kern when he rose to speak. For eleven minutes the thousands cheered and shouted, and the efforts of the recipient of the honor to still the tumult only seemed to give it impetus. The speech of Mr. Kern on this occasion disclosed the inner man.

"I am tired and somewhat travel worn tonight and I don't know that I can make myself heard to the uttermost limits of this vast audience. I am sure that I can find no words which will in any measure express the emotions of my heart upon this occasion.

"It is true, as has been said, a mark of distinction has been given me by the national convention of my party, and to that convention and the men it represents I am deeply grateful, but I am more grateful to Almighty God for the friends He has given me in Indianapolis, regardless of political affiliation. I would be very much more or less than a man were I not deeply touched by this manifestation of your personal friendship and confidence which I have witnessed from the time I alighted at the station this afternoon until the present hour. I may be defeated at the polls, but if so that is not a killing matter, because I have become accustomed to that; but if I should go down in defeat in November, the memory

of what has occurred here tonight will amply repay me for whatever of toil may be my lot between now and then.

"And the fact of this great assemblage attesting your loyalty and friendship to me I will bequeath to my children as a richer legacy than any on the face of the earth or all of the wealth of the world. . . .

"How small is the man who will stop in campaign time, or any other time, to quarrel with his neighbor, because that neighbor, in his right of citizenship, differs from him as to the best method of government. The true American feeling is manifest here tonight. Our children must play together in the years to come, whether they are Democrats or Republicans. They will inter-marry. They will rear families. Their lots will be cast together; they will all be interested alike in promoting the welfare, the honor and the glory of this mighty republic, and this being so, why will we quarrel because they can not agree?"

The *Indianapolis News*, politically antagonistic, editorially referred to "Mr. Kern's unusual gift of felicitous extemporaneous speech" in commenting upon his "altogether admirable speech." After a few days of much needed rest spent with his family at the home, the nominee turned to the preparation of briefs in supreme court cases during the next few weeks, with occasional political journeys, and some non-partisan addresses. Most enjoyable to him among the latter was his trip to Kokomo to receive the non-partisan homage of his "home folks." Here

he was forced to address a great throng from the hotel balcony before the exercises in the evening at the theater, where Judge Harness, a Republican, presided. Here he was greatly affected as he stood waiting for the ovation to end while the band played "Auld Lang Syne." And here, too, he made a heart speech, unmarred by a partisan note. In the latter part of July he attended a meeting of the national committee at Chicago when Norman Mack was chosen for the national chairmanship, and here he again conferred with Mr. Bryan. And on August 11 he was the guest of Mr. Bryan at Fairview on the occasion of the latter's notification. Here he made a brief non-partisan address and conferred with the presidential nominee and Mr. Mack. Another non-partisan address at Indianola, Iowa, where he visited his mother's grave, renewed boyhood friendships, and revisited the scenes of childhood, and a political speech at Milwaukee intervened before his formal notification at Indianapolis on August 25.

This was a great day in the history of the Hoosier Democracy. The faithful gathered from the four quarters, for not only was the Indiana leader, most beloved by the rank and file, to receive his formal notification, but Mr. Bryan, the idol of the same element, was to participate in the ceremonies. Indianapolis was thronged. The day was ideal. In the morning before the exercises Mr. Bryan and Kern

received and conferred with party leaders from over the country, and met the members of the national committee and the notification committee, and all these sat down to a luncheon at the Denison hotel. The notification was made in the enormous coliseum at the state fair grounds, which seats 20,000 people. Hundreds of automobiles bearing the politicians dashed out Meridian street, and it required 500 street cars to carry the less favored. When Bryan and Kern entered the immense auditorium each was given an ovation from the vast audience. Theodore Bell, of California, chairman of the notification committee, charmed with his eloquent address of notification, and Mr. Kern, in accepting the nomination, took up the challenge thrown down by James S. Sherman, his Republican competitor, in his speech at Utica, N. Y., making a powerful presentation of the Democratic case on the tariff, the trusts, and popular government. That evening he and Mrs. Kern entertained the party celebrities at dinner at the Country club, and the great day was over. Mr. Kern was now the nominee for vice-president, and knew it.

IV

By the middle of September Mr. Kern's itinerary had been made out by the national committee and called for extensive campaigning, especially in the east and south. There had been rumblings through

the press of some apathy in the southern states, and while there was no danger of losing the electoral votes of this section, it was thought but the part of deserved courtesy to send the vice-presidential nominee through the south. The middle of September found him addressing a great throng at the state fair at Louisville, where he carefully refrained from any expression of a partisan nature; two days later he was in Chicago with Mr. Bryan, and on the 19th he began his speaking tour of the south. This took him first into Maryland. It was while here that the unfortunate Haskell episode, which occasioned such concern and embarrassment to leading Democrats, occurred. The charge that the treasurer of the Democratic national committee had some sort of connections with the Standard Oil Company, had been taken up by President Roosevelt with the view to convincing the people of the insincerity, if not dishonesty, of the Democratic candidates in the matter of campaign contributions. There was enough fire to make much smoke with the careful handling of an astute politician like Mr. Roosevelt using his high office as a base of operations. The publicity-before-the-election policy of Bryan and Kern was causing Mr. Taft and Mr. Roosevelt no end of trouble, and the attempt of the former, strangely backed by the latter, to convince the people that a program of publicity-after-the-election would do quite as well was

not making a favorable impression. Thus the Haskell incident was worked to the limit of its possibilities. At Elliott City, Md., Mr. Kern took notice of the president's contribution to the campaign concerning the Haskell matter, charging him with using it in an effort to muddy the waters, and ridiculing his pretensions as a reformer. From Maryland he was forced to jump to Mansfield, Ohio, to formally open the campaign in that state with former Gov. James E. Campbell, where he discussed the tariff and trusts and facetiously referred to the Foraker-Taft-Roosevelt Kilkenney cat fight. Five days later he met his opponent for the first time at the Auditorium Annex in Chicago. Learning that Mr. Sherman was in the hotel, he expressed a desire to Senator Smith, of Michigan, to meet him. The senator called the Republican nominee from his room and the meeting took place in the lobby, to the delight of the newspaper men. This was the beginning of a warm personal friendship between two men whose political opinions were as divergent as it was possible for them to be.

From Chicago Mr. Kern plunged into the south, making his first speeches in Alabama. All the Kern meetings in the south were remarkable demonstrations. His meeting at Birmingham was a huge success. On his way from this industrial capital of Alabama to Atlanta he spoke for ten minutes to the

mill hands at Anniston. These were the men to whom he made a strong appeal.

At Macon, Ga., when his train drew into the station he found a cheering crowd to greet him and the meeting in the evening was one of the most rousing he addressed during the campaign. Here he took occasion to reply vigorously to the attacks of Mr. Bryan's enemies on the ground that he was "unsafe."

His meeting at Asheville, N. C., in early October, was one of the stirring old-fashioned sort, the greatest political meeting that had been held there since 1896. A picturesque touch was given to this demonstration by several hundred mountaineers riding into town from miles around on mules. Here he was introduced by former Governor Glenn and followed by the brilliant James Hamilton Lewis.

Having in two weeks spoken in Maryland, Alabama, Georgia, North Carolina and South Carolina, he closed this part of his canvass, hoarse from a cold and from over-use of the voice at a great meeting at Huntington, W. Va., on October 10, and on the following day he reached his home in Indianapolis.

Here a great trouble awaited him. John Kern, Jr., had been stricken with that most distressing of maladies, infantile paralysis. During the next three days the candidate spent every moment possible at the bedside of his stricken boy, but the 14th of October found him engaged in strenuous campaigning in New Jer-

sey. In the afternoon he spoke to the business men in Elizabeth, and at night to two remarkable meetings at Newark and Jersey City. At the former meeting the meeting was preceded by an old-fashioned parade with marching clubs, and the faithful in automobiles, the streets aglare from the red lights carried by the marchers, and by occasional bonfires along the streets. From Newark he was hurried to Jersey City, where he was greeted with a great crowd at Phoenix hall. It was at this latter meeting that he attacked the source of some great fortunes. Referring to the comment of Judge Taft that one way to reduce swollen fortunes would be for the possessors to give generously, Kern said that "Judge Taft advocates the pillaging of the people and trusting to the generosity of the pillager to pay back some of the ill-gotten riches."

On the following day the candidate spoke at Tammany Hall in New York city, where his entrance was the signal for an ovation which was repeated a moment later when Lieutenant-Governor Chandler, the nominee for governor, ascended the platform and clasped the hand of the vice-presidential nominee. Mr. Kern's speech here in the great financial center of the country was significant of his unwillingness to in any way compromise on his progressive principles for the possible effect in New York city.

In all his speeches on his eastern tour Mr. Kern

made a special plea to the laboring classes, for upon these he predicated his sole hope of carrying New York, New Jersey or Connecticut. At Bridgeport, Conn., he addressed his remarks exclusively to these.

On the 19th of October he went to Utica, the home city of Mr. Sherman, his Republican opponent. Here, to his surprise, he was given one of the most remarkable welcomes of his tour. Knowing of Mr. Sherman's wonderful hold on the affections of his fellow citizens he was startled at the warmth of the greeting until he learned that his opponent had wired a request to his own followers to join in the general welcome. As he stepped upon the platform to face a great audience he was handed a personal telegram of welcome from Sherman, then touring the west. This was a touch that Kern could appreciate, for it smacked of himself, and his opening remarks were in a happy vein as he referred to the incident. His speech here was an attack upon the great trusts and on swollen fortunes made possible by special legislation. It was here he said that "the spending on one dinner by the ultra-rich of sufficient to feed a million starving men is doing more to foster socialism and anarchism than all the socialistic and anarchistic propaganda."

If Utica was to be remembered by him as the scene of a pleasing act of chivalric courtesy, it was also to be associated with the most painful shock of the cam-

paign. It was here that a telegram reached him announcing the serious condition of young John and summoning him to the bedside. He immediately canceled all engagements and left for Indianapolis. Reaching home in the early morning, worn with fatigue of travel and speaking, he took up his vigil by the sick boy's bed, scarcely leaving his side. The next few days found the vice-presidential nominee in the sick room. On October 26th he arranged to keep in constant touch with his home, and left for a week of strenuous campaigning in Indiana. By using steam train, interurbans and automobiles he was able to cover the state from the river to the lake making many speeches each day. On the Friday night before the election he spoke to the people of Indianapolis at a great meeting at Tomlinson hall. During the days immediately preceding Andrew Carnegie had gravely announced his adherence to the cause of Taft and Protection, and this announcement, which was unnecessary, was followed by one equally unnecessary from John D. Rockefeller to the same effect. These announcements appealed to Mr. Kern's sense of humor, and he discussed them with biting sarcasm.

Mr. Kern's close of his Indiana campaign at Evansville on Saturday night was not to mark the end of his labors. On the insistence of the national committee he was hurried into northern Ohio for a

number of speeches on the day before the election, and after a meteoric rush through numerous towns he spoke his last word at night at an important meeting at Toledo.

But as he turned toward home that night it was not of the battle of ballots on the morrow that he was thinking.

V

It was a sad group that gathered in the Kern library the night of the election. The returns were not the cause nor did they create much interest for the immediate family, which was alone; they were more intent on the news that the doctors and nurse were bringing from the room above where John, Jr., was fighting what then seemed to be a hopeless battle. He was not expected to live through the night. The fact that the little warrior's mind was keen and alert that night only added a poignancy to the pathos. He won his battle; and on the morning after when Mrs. Kern entered the room the little fellow looked up anxiously:

"Mother, was father elected?"

Mrs. Kern hesitated a moment and then told the truth:

"No, John, your father was defeated."

The boy closed his eyes tight and with the bitterness of childhood exclaimed:

“Uh! What fools the people of the United States are to turn down such a man as father.”

Later on, when the boy was on the road to ultimate recovery, this remark, rather pathetic at the time, took on a humorous side; and when two years later Vice-President Sherman was in Indianapolis and called at the Kern home the story was told for his amusement. To the surprise of every one the amusing feature of the story did not appeal to him. His eyes filled up, and tenderly placing his hand on the head of the boy, still crippled, he said gravely:

“My boy, the more I have seen of your father and the better I know him the more I am inclined to think you were right.”

This incident, so expressive of the sweetness and tenderness of Mr. Sherman, added to many other manifestations of his chivalry, endeared him to Mr. Kern. While no two men could possibly have differed more widely on almost every phase of public policy, a personal affection sprang up between them which lasted through the life of both. During the campaign the chivalry of Mr. Sherman was not confined to urging his supporters to give his opponent a royal welcome to Utica, nor to the personal telegram of greeting that was handed Mr. Kern that night on the platform. When the announcement went out from that city that the Democratic nominee had been summoned home by the serious illness of his boy, he

had scarcely turned homeward when another telegram reached him from Mr. Sherman expressing his sympathy in tenderest phrasing. And when during the last week of the campaign a vicious personal attack was made on Kern by a New York paper, even before he had heard of it, his Republican opponent wired him of his personal disgust. When two years later Mr. Kern entered the Senate and had been sworn in, before he could reach his seat a page overtook him with a request from the vice-president for him to take the chair. And these instances of the beautiful chivalry of "Jim" Sherman might be multiplied. When the vice-president died Mr. Kern was one of the senators chosen to pay tribute to his memory at the impressive services in the Senate chamber attended by the president and his cabinet, the justices of the supreme court, the members of the House, and the diplomatic corps. The address he made on this occasion is the only one he delivered during his senatorial career in which he took special pride. He put his heart into it, for, like so many others who differed with him radically in politics, he had learned to love the man who defeated him for the vice-presidency in 1908.

CHAPTER X

BATTLES FOR THE SENATE

I

THE seventeen months following the election of 1908 were to bring to Mr. Kern the most bitter disappointment and the most gratifying triumph of his career. While Indiana had been lost to the national ticket by a comparatively small majority, local conditions, and the remarkably attractive campaign of Thomas R. Marshall, the gubernatorial nominee, had resulted in the election of a Democratic governor and legislature. And the majority in the legislature meant the election of a Democratic United States senator. As a result, the polls had scarcely closed in Indiana when the state found itself engaged in another spirited contest to determine which of the Democratic aspirants should be sent to Washington. In quick succession these men appeared upon the scene with their organizations and pretensions. It was the general assumption of the masses of the party that Mr. Kern, who had sacrificed himself to the party in 1900, in 1904 and again in 1908, and whose association upon the ticket with Mr. Bryan, the popular idol of the Indiana Democracy, carried with it that leader's following, would enter upon his reward.

But this assumption was not to go unchallenged. To thoroughly understand the situation it is necessary to know something of the character of the campaign which had resulted in a Democratic triumph. It had hinged upon the periodic issue of liquor legislation forced upon the politicians by the action of Governor Hanly in compelling the Republican state convention to declare in favor of county option. This action had been met by the Democrats taking a stand in favor of ward and township option, and the issue had been accentuated by the move of Governor Hanly, in defiance of the appeals and threats of his fellow Republicans, in calling a special session of the legislature in the fall and forcing the county option law upon the statutes before the voters had an opportunity to register their verdict. The so-called liberal element lined up aggressively with the Democrats and with its powerful organization, with ramifications into every community, contributed much to the result. At any rate it took to itself the triumph. And this explains the element of uncertainty precipitated into the senatorial situation—the liberal element was opposed to Mr. Kern.

Among the men who offered themselves as candidates were several who had richly earned a reward from the party. Chief of these was Benjamin F. Shively, who had distinguished himself in early manhood by a brilliant career in the house of repre-

sentatives, and had endeared himself to thousands by his gallant fight in 1896, when he led the party as its nominee for governor. A man of imposing presence, extraordinary intellectual equipment and impressive eloquence, he measured up to the high senatorial traditions of the party in the state of Hendricks, Voorhees, McDonald and Turpie. And in addition to that he was the favorite of the liberal element that claimed the credit for the victory.

Another aspirant was John E. Lamb, who had begun a career of exceptional promise as a member of the house of representatives before he was thirty, had maintained the reputation then made through years of brilliant service on the stump, and had, upon the personal request of Mr. Bryan, taken charge of the western headquarters in the campaign of 1908. Major G. V. Menzies, who had behind him a long career of effective party service, L. Ert Slack, about whom the radical temperance forces rallied, and E. G. Hoffman, a young man, then comparatively little known but backed with the prestige of the organization that had nominated Marshall for governor, completed the list.

While the various candidates and their organizations made the customary claims, it was generally thought throughout the state among party men of the rank and file that the recent nominee for vice-president would have an easy triumph, previous to the

appearance of the politicians in Indianapolis. It was the contention of Mr. Shively's supporters that since Kern had chosen the vice-presidency and their candidate had confined himself to the senatorial campaign the state victory warranted him in insisting upon the fruit of the triumph; and Mr. Lamb's friends were equally insistent upon the claim that his management of the western campaign for the party gave him a clear right to the honor; while the others rested their cases upon the ground that any good party man had a right to aspire to the senatorship. Notwithstanding all these conflicting claims the prevalent impression over the state was that Kern would be selected. Until the politicians moved on Indianapolis, two weeks before the caucus, there was not the shadow of a doubt in the mind of Mr. Kern as to his election.

Seldom in the political history of Indiana have more animated scenes been witnessed than those that were staged about the Denison Hotel in Indianapolis during the two weeks preceding the contest in caucus. Headquarters were opened early by all but Kern, who persisted in the folly that his election was assured by popular mandate. Delegations of local admirers of candidates flocked from all sections. The café, in those days a place of frolic and folly, was packed until the small hours of the morning with wire-pulling politicians. All the candidates had per-

fecting excellent organizations of practical political manipulators of men—all save Kern, who relied on popular opinion. The result was numerous interchanges of views between the various camps, attempts at bargaining, and all tending to the crystallization of one opinion—that Kern was the man to beat. Thus his advantage proved his weakness. He was not, however, to be permitted to drift without a warning. Within twenty-four hours after reaching the scene of battle Mr. Lamb, as perspicacious a politician as the state has produced, accurately sensed the situation and realized that the efforts of powerful elements were being directed primarily toward undermining the prospects of the Indianapolis candidate. He did not underestimate the resources of these elements and was convinced that the salvation of Kern depended upon an open ballot to the end that the force of opinion might be brought to bear upon the legislators. With this in view he early importuned Kern to take a determined stand against a secret caucus, and lead off himself with a declaration in favor of a vote in the open. On the following day Kern was said by the press to favor an open ballot—but he made no statement. And when, on the day following, the press reported “Kern stock booming,” with thirty-five votes certain on the first ballot, he permitted himself to be lulled into a sense of security. It was almost a week after Lamb had taken his stand

and but two days before the date for the caucus that Kern was forced by unmistakable developments to a realization of his danger, and he gave out a statement to the effect that the people had a right to know how their representatives voted.

It was on the day of the caucus that the trend of events began to develop into meaning to the spectator. Members of the legislature were actually quoted in *The Indianapolis News* as saying that they "did not intend to tell any one how they voted." And that same evening the common talk about the hotel lobby was of combinations against Kern, with all the other candidates posing as the logical beneficiary of the combine.

When, accompanied by Oscar Henderson and Michael A. Ryan, Mr. Kern reached the state house on the night of the caucus and took up his quarters in the rooms of the lieutenant governor it was with a full realization of his danger. He knew that the votes would be delivered in the dark, and he suspected that with the exception of Lamb the other candidates were in league against him. Almost exhausted, he lay down upon a couch for an hour, too tired to talk, merely nodding his head in reply to questions. During the balloting the scenes about the state house were exciting enough and not a little disgraceful. Members emerging from the room were followed like prisoners by attaches of the legislature in an effort

to prevent them from conversing, and one of these narrowly escaped a caning at the hands of Lamb when he poked his head over the candidate's shoulder in an effort to hear what he was saying to the senator from his own county, who was acting as his floor manager. It required twenty ballots to elect, but the first ballot sounded the knell of Kern's hopes. Where he had hoped for more than thirty votes he received but twenty-five, although the combined strength of the two next highest, Shively and Lamb only surpassed it by one vote. The second ballot was significant with two desertions—at a time when there could be but one explanation for such desertions, and that plain treachery. On the third ballot, when Lamb went to him, he received thirty-four votes, but instead of starting a rush in his direction he fell to twenty-eight on the next ballot—showing that men playing the cat and mouse act with him had taken flight. At 10 o'clock Kern rose from the couch and paced the corridors smoking, his hands in his side pockets, and on the announcement of the fifth ballot he said "It's all over." From that time on it was a case of hoping against hope. As the contest narrowed to Kern and Shively efforts were made to persuade some of the losing candidates to throw their support to Kern, but their attitude clearly disclosed in the case of the men approached that he was the one man they would not benefit if they could help it. At

2 A. M. the door to the caucus room flew open—Shively had been elected, the final vote giving him 42 to Kern's 36.

That was the darkest night in Kern's career.

Through years of sacrifice he had reached—this. He went home that night more completely crushed than he ever was before or after.

But over at the hotel a group of politicians celebrated throughout the night, not so much over Shively's election as over Kern's defeat. But the next morning threw a different light on things. A wave of bitter resentment against the secret caucus swept over the state and legislators were being called to an accounting. The roll call by the various constituencies of the state during the next few days disclosed that Kern still had the majority of eight he had figured on. It was a period of alibis.irate members under suspicion of treachery furiously announced through the press that they were "ready to lick any man who says I did not vote for Kern." *The Indianapolis News* editorially expressed the prevalent opinion when it said—"We think that Mr. Kern suffered from the secret ballot, for this deprived him of the weight of the popular indorsement which was clearly his, and which would have had full play had there been an open ballot." The event attracted attention all over the country and within twenty-four hours Representative Charles B. Landis, from Washing-

ton, made the prophetic prediction that this particular secret caucus would result in a direct primary "or something of the sort."

With Kern it was accepted as the end of a political career, and he turned again, now sixty years of age, to the practice of his profession. About this time he received a letter from James B. Morrow, the well-known Washington journalist, to the effect that he would soon be passing through Indianapolis and would stop over in the hope of having a talk with him concerning his early struggles, with the view to writing a special feature article. Mr. Kern replied that he would be glad to see him. It was several months before he appeared. The night he reached Indianapolis Kern received him in his office and after relating the story of his early struggles he sat until a late hour with the journalist exchanging stories and reminiscences of public men. During the whole of this time not a word was said about the senatorial election. At length as they were preparing to leave and Morrow was helping Kern on with his overcoat, the former remarked that in the east they had expected to see Kern in the senate. With a whimsical smile Kern replied that he too had expected it, but that "they got eight of them away from me." On being asked who he meant by "they" he replied—"The brewery crowd." It was not the understanding of Kern that this was part of the interview,

but Morrow, with the keen nose for the important, incorporated it in his story. In doing so he did not employ the exact words used—but the sense was the same. The difference was due to the cold type. That interview was to pursue him as long as he lived. He might have escaped some embarrassment by giving the lie to the newspaper man—a favorite method of most politicians. But Kern knew that Morrow wrote sincerely and with no evil intentions and it was so nearly exact that he accepted it. Two years later, after his election to the senate, Morrow entered the office of Kern in Washington and asked to see him. "I want to thank him, congratulate him, and apologize to him. I wrote an interview with him once that must have caused him considerable annoyance. In years of experience as a newspaper man he is the first man, thus confronted with an interview that caused annoyance that did not repudiate the interview and put the lie on the correspondent. He did not—and he stood the gaff. I want to apologize for unintentionally causing him annoyance, thank him for not giving me the lie, and congratulate him on being a man."

That interview was perhaps the most famous ever given by a public man in Indiana.

II

Kern quickly recovered from his disappointment and turned to his profession with the determination

to put politics behind him forever and devote the remainder of his life to making money for his family. He had sacrificed much to politics, and at the age of sixty was a poor man. But he had an excellent practice and could look forward with confidence to several years of active work. While too ardently attached to the principles of his party to fail in party service when occasion called he considered his office-seeking days as over and his family rejoiced in his retirement.

As the campaign of 1910 approached with another United States senator to be elected, Governor Marshall startled the stationary politicians with a statement in advocacy of the nomination of a senator in the state convention. This was one of the fruits of the secret caucus of the spring of 1909. At first there was a disposition to treat the suggestion with levity, but it appealed so strongly to the rank and file that the old-line politicians finally felt compelled to take an aggressive stand against it. And the fight was on. The governor merely stood firmly on his statement, taking the position that it would not be becoming in him to take the stump in its behalf, but his personal popularity carried it far. And when almost immediately many veteran politicians such as John E. Lamb put on the armor in its behalf the fight became picturesque and exciting. There has probably never

been a more dramatic political convention in Indiana than that which met in Tomlinson Hall in the spring of 1910. We need not go into details concerning the preliminary work of the convention culminating in the triumph of the "governor's plan." With this phase of the convention Mr. Kern had nothing to do. He occupied a seat with the Marion county delegation—one of the rank and file. After the vote on the plan he left the hall and was absent when the names of various candidates for the senatorial nomination were presented. He had a premonition that his name might be urged upon the delegates and had taken steps, as he thought, to prevent any such movement. Hearing that the delegations from Howard and Clinton counties had announced their intention of supporting him, he had personally protested and felt that he had accomplished his purpose. He did not know that a few farmer delegates from the Indianapolis delegation could start a storm. Returning to the convention while the first ballot was in progress he found that his name was before the convention. "When I entered the hall," he said afterward, "several men yelled 'Stand pat, John,' and I didn't know what to do for an instant. I thought, however that the manly thing to do was to make a statement to the convention and I stood on a chair and told them that my name had been presented without my knowledge

or consent, and that no man had any right or authority to present my name and that I was not in any sense a candidate."

The moment he concluded Wabash county was called and cast 15 out of its 16 votes for him, and Wayne county followed with its 26 votes—the solid delegation.

When his name had been first presented there was a tremendous ovation and cries of "Kern," "Kern" drowned all other noises. In a box in the balcony an interesting little drama was enacted. Mrs. Marshall, wife of the governor, was entertaining several ladies, including Mrs. Kern and Meredith Nicholson, the novelist. When Kern's name was presented and the demonstration began, Mrs. Kern, frankly elated at the rare honor being shown her husband, insisted that he would not accept. This was received with incredulity by the others present. The subject had been thoroughly threshed out about the family hearth and she knew. Nicholson scouted the idea that he would decline—a preposterous idea! When Kern appeared, his coat almost torn from him by frantic friends trying to hold him back, and mounted the chair and rebuked his friends, the novelist, amazed, exclaimed—"That man's not human." But that was not to be his final effort. The first ballot ended with Kern far in the lead with 303 votes, only six of these from Marion county, the other 177 having been cast

for Thomas Taggart. On the second ballot Taggart withdrew his name and cast the solid vote of the delegation for Kern, and the roll call ended found him with 647 votes.

It was then, with the nomination within his grasp, that Kern made his supreme effort to put aside the crown. This time he took the platform and the convention heard him with impatience, and with a considerable show of feeling he protested against the right of the delegates to force upon him something he had renounced. When he said that it had been intimated that he had been masquerading in the matter he was greeted with shouts of "No, no," "Sit down" and "You can't refuse."

Leaving the hall on the conclusion of his speech he went to his law office and began work on a case. It was while thus engaged, and after Lamb had also withdrawn in his favor, that the stenographer, answering the telephone, turned to him in surprise with the exclamation—"Why, Mr. Kern, you have just been nominated for the senate."

His first inclination was to refuse the nomination. But the fact that it was so manifestly the spontaneous will of the party and the urgent insistence of the avowed candidates that he face a duty finally persuaded him against his will. Almost in a flash all his plans for a peaceful life in the practice of his profession were ruins at his feet, and he again, as so

many times before, put on the armor and prepared for battle.

III

The senatorial campaign in Indiana in 1910 was unique in the political history of the state. Senator Albert J. Beveridge was the nominee of the Republican party for re-election, although his position with his own party was precariously insecure. He had entered public life as an aggressive and brilliant exponent of the more pronounced Hamiltonian theories, and had been a consistent champion of Big Business, an audacious defender and eulogist of the trust, an eloquent advocate of the protective tariff, and in other ways, viewed from the Democratic viewpoint, a peculiarly advanced and defiant reactionary. But he had rebelled against the Aldrich senatorial machine when it threw even discretion in the winds in its arrogant determination to force the Payne-Aldrich tariff bill upon the country, and had joined Dolliver, Cummins, Bristow, Clapp and Lafollette in the fight against it. This he had done with his usual brilliancy and eloquence, and he had thus incurred the deadly enmity of the reactionary element of his party in the state. Unhappily for him this was the predominant element. His one hope under the circumstances was that his courageous act of rebellion would rally to his support the progressive element of the Democratic party and thus make up for

any loss from the Republicans. This plan, however, contemplated the creation of the impression among the progressives that the election of a Democratic legislature would result in the election of a reactionary to the senate, and his supporters had two or three men in mind to hold forth to the people as likely beneficiaries of a Democratic victory. The action of the state convention in nominating a candidate overthrew all these well-laid plans. The nomination of Kern, nationally known as a progressive, was the last straw. Little wonder that Senator Beveridge, in writing to Governor Marshall after the adoption of "the governor's plan," said "You have broken my heart." But thus handicapped he prepared to contest every inch of the ground, and no man has ever made a more thorough and brilliant campaign.

Kern opened the campaign in a strong speech at Evansville on October 1st. It was a powerful presentation of the issues involved in the unique campaign in which a Republican senator was appealing for support on the strength of his repudiation of the policies of his party while urging the retention of that party in power. The action of Beveridge in voting for the ship subsidy bill and against the income tax was used with deadly effect, as was the insistence of some of the senator's friends, such as Charles G. Sefrit, of *The Washington Herald*, that had the vote of the senator been necessary to the pas-

sage of the Payne-Aldrich bill he would have supported it. All his references to his opponent were directed by Mr. Kern to an effort to compromise his position as a contender for the progressive vote, and the senator had been too intimately indented with Republican policies to make this difficult. The last half of his speech was consumed in a denunciation of the extravagant expenditures by Republican congresses and the misuse of the taxing power.

The speech was considered extraordinarily adroit and forceful. *The Indianapolis News*, a Republican paper, never friendly to the senator, in an editorial analysis of Mr. Kern's discussion of the senator's progressive pretensions, managed to insinuate an interrogation of its own and concluded by saying: "What Mr. Kern had to say of governmental extravagance was well said. He argued that extravagance and protection are related to each other, that protection is itself extravagance. On the whole Mr. Kern's speech is a strong and fair statement of the Democratic position. This is manifestly a campaign in which the speakers on both sides are going to deal with real things and real issues. The truth is that the people are tired of the old buncombe, a fact which the campaigners evidently appreciate. The question in Indiana is whether the people will believe that the insurgents are strong enough to change the course of their party, which they admit to have

been wrong, and to free it from influences that have long dominated it, which they confess to be abhorrent. And that is a question which each man must answer for himself, with the help of such information as he may be able to get. It gives us pleasure to commend the speech of Mr. Kern as a straightforward and manly presentation of the Democratic case."

Mr. Bryan telegraphed: "Your speech was a powerful statement and much stronger both in substance and manner to that of your opponent."

During the next month Mr. Kern was constantly on the stump, speaking afternoon and night, accompanied usually by correspondents of Indianapolis papers upon whom the personality of the candidate made an agreeable impression, if we are to judge by the tone of their articles. In this way his speeches were given the widest possible publicity. As the campaign progressed his reiterated questionings of Senator Beveridge's position as a progressive led the latter to taking a more advanced position than in the beginning, and this served to further embitter the Republican reactionaries. In speech after speech Kern dwelt upon the senator's vote in favor of a ship subsidy until toward the close of the campaign Mr. Beveridge was forced to pledge himself against a similar performance. Never, perhaps, has Senator Beveridge been more eloquent,

more daring and dashing than in the campaign of 1910. He preferred to look upon his rôle as that of a crusader, and he did smite the reactionaries hip and thigh. As the heat of the battle increased this crusading feature was emphasized until the sentimental reached a climax in the declaration of Fred Landis, an orator noted for his quaint humor, that Beveridge, holding the plutocrats at bay, was standing for "Mary of the vine-clad cottage." This symbolizing of the humble lot was instantly seized upon by the senator's crusading friends, and even the senator adopted "Mary," until Kern turned it into ridicule in a speech at Decatur which caused a roar of laughter from river to lake. In satire and ridicule Kern had no equal in the state, and he used his weapons on occasions with much effectiveness. His satire on Mary was copied in *The New York Sun*, and as long as the present generation lingers on the stage "Mary of the vine-clad cottage" will bring a smile.

The two candidates, while strenuously engaged on the stump themselves, had some outside assistance. Mr. Roosevelt swept across northern Indiana in behalf of Beveridge, but some unpleasantness of a mysterious nature diverted popular discussion from what he said to the fact that he refused to leave his car to address a great throng at Richmond. The two former presidential nominees of the Democratic party, and

both personal friends, Alton B. Parker and Mr. Bryan entered the state in behalf of Mr. Kern. In his speech at Indianapolis the middle of October Judge Parker told his hearers that in the senate "we shall need the common sense, the sturdy honesty and eloquence of John W. Kern." And about the same time Bryan was sweeping over the state in a characteristic whirlwind of oratory, addressing a dozen audiences a day and everywhere making a special plea for the election of Kern.

Thus in the struggle for the progressive vote the advantage was all with Kern. There was no possible reason why any progressive of the Democratic party should vote against Kern, and while the Republican progressives were intensely loyal to Beveridge they were in the minority, and the Republican reactionaries were bent upon the destruction of the man who had refused to bend beneath the Aldrich lash. It is doubtful if any man has ever been the victim of greater treachery than Beveridge in 1910. There was scarcely a community where the Republican politicians were not whetting their knives for his slaughter. The result was easily foreseen and the Democrats carried the legislature.

The peculiarly venomous and unscrupulous nature of Kern's enemies was disclosed after the election by the suggestion that the legislature might not feel bound by the action of the state convention on the

senatorship. This, of course, did not get very far. The mere suggestion damned itself, and the leaders alarmed, denounced the idea of such treachery. Governor Marshall made it clear that he would not sign the commission of any man but that of the man for whom the majority of the people had voted. There was probably never the least danger from any such suggestion. Mr. Kern took no stock in the fears of many of his friends, and the event vindicated his confidence. When the legislature met he was promptly elected. Any other result would have wrecked the Democratic party for a generation.

Thus after thirty-eight years of service and sacrifice he entered into his reward in the realization of the ambition of his life.

CHAPTER XI

KERN'S FIRST CONGRESS

I

SENATOR KERN entered the senate at a time when the dawn for the Democracy was breaking in the east; the long night of wandering in the wilderness was over and the day had come. In the opposite end of the capitol, the Democrats, with a triumphant majority, had made possible the election to the speakership of Champ Clark, one of the most uncompromising of Democrats and one of the most picturesque floor leaders that any party had ever had in the house. The Payne-Aldrich tariff bill had wrought such havoc that many of the old familiar figures of the congress had been swept into private life by the flood of popular indignation. The bitter fight that had been made by the Republican rebels in the senate against the iniquities of the tariff measure had left a once militant party in a state of demoralization, born of mutual distrust a desire for vengeance. There were no longer two parties in the senate—there were three, and the two of these counted as Republican were more bitter against each other than against the common enemy across the aisle. This was to be impressively disclosed early in the session, when the death of the venerable Fry

of Maine necessitated the election of a president pro tempore and the Republicans with their numerical advantage were unable to muster a majority for Senator Gallenger, the caucus nominee, because the progressives, as they then termed themselves, insisted on voting for Senator Clapp. To intensify the Republican dissensions, the action of President Taft in calling an extraordinary session for the consideration of the Canadian Reciprocity bill was as gall and wormwood to the extreme exponents of a high protective tariff. The Republicans were surly, and hopeless, disorganized, distrustful, demoralized.

And into this new senate the elections of 1910 had injected new blood. Aldrich, for a generation the potential leader of triumphant reactionary principles, no longer answered to the roll call. Hale of Maine, the first lieutenant of Aldrich, had retired. So too had Burrows of Michigan, one of the little coterie that arbitrarily determined the course of legislation in "the good old days." On the Democratic side of the chamber were many new faces, some young, some old, but all fresh from the people and militantly progressive in their tendencies—their faces to the east. From Maine the virile, forceful Johnson—the first Democrat in generations; from Missouri the eloquent, picturesque militant, James A. Reed, destined to claim and compel a hearing from the start; from Ohio, in the seat of the reac-

tionary Foraker, Atlee Pomerene, a thinker and fighter with faith and vision; from Nebraska the brilliant and aggressive journalist, Gilbert Hitchcock; from New York James A. O'Gorman, than whom no stronger character has ever represented the Empire state, independent in thought and action; from Tennessee the youthful Luke Lea—"Young Thunderbolt," they called him, because of his pugnacity in battling for whatever he considered right; from New Jersey, fresh from his triumph over Smith, the former senator who had helped to scuttle the Democratic ship in the emasculation of the Wilson bill seventeen years before; from Montana, Henry L. Myers, the soul of sincerity and political honor; from West Virginia, William E. Chilton, and from Mississippi the brilliant John Sharpe Williams. Thus of the thirty-nine Democratic senators ten were new men and every one progressive in his tendencies and determined upon an aggressive party policy.

In the days immediately preceding the opening of the session the new Democratic senators, fresh from the people, held numerous conferences, and into these conferences other senators holding similar views, such as Shively of Indiana and Stone of Missouri, were drawn. There was much to consult about. The rank and file of the party throughout the country had not been satisfied with the character of the Dem-

ocratic opposition to the Payne-Aldrich tariff bill, which had been secondary to that of the Republican rebels. During the long years of Democratic defeat there had developed among the Democratic gray beards of the senate an exotic known as the "White House" senator—the man whose party militancy had been softened into mushiness through the influence of social and patronage favors. There were others thought to be on too intimate terms with the Republican oligarchy dominated by Aldrich. Flowers over the garden wall had become too common. In brief the masses of the Democratic party were demanding a far more aggressive and uncompromising party policy than had been in evidence in a number of years. And practically all of the new senators, fresh from the people, shared heartily in these views.

But the method of impressing their views upon the Democratic membership of the senate presented a problem. Under the antiquated rules and practices, sustained by the pernicious rule of seniority, which held that new senators should be seen and not heard for an indefinite period, the old regime would arbitrarily determine committee assignments and, largely, caucus action. And they were practical politicians—these new men. They were not in the least awed by the atmosphere of the capitol. And they understood perfectly that if they were to get a "place in the sun" for the policies they stood for they

would have to fight for it. This they determined to do.

From the beginning these new men gathered around Senator Kern, who was not only the oldest man among them, but the best known nationally. Day by day groups gathered in his offices, and without in any sense claiming it he found himself in the position of counselor of the militant progressives—the exponents of the new deal. His forty years of active participation in the hard-fought political battles of the doubtful state of Indiana gave assurance of a safe leadership; and his very name was a symbol of the policy these new men proclaimed.

The fight came in the election of the caucus leader, whose power to name the committee on committees made him in a large sense the determining factor in deciding the general tone of the Democratic side of the senate. Senator Martin of Virginia, who had been the leader and expected to retain the leadership, was generally looked upon as an ultra conservative, and at that very hour a fight was being made against him along progressive lines in the Old Dominion. A man of pleasing personality and unfailing courtesy, the decision to contest his re-election was not predicated upon personal dislike, but upon the fact that he at the time symbolized the old regime, which the new men proposed to pull down. For this purpose Senator Kern presented to the caucus, in opposition,

the name of Senator Shively. The vote was a revelation to the "gray beards." Notwithstanding the vigorous fight made in behalf of the Virginia senator, the peculiar sense of senatorial courtesy, the personal pleas that his defeat would be used unfairly against him in his fight in the primaries of the state, the accessions to the new senators from the old were so numerous that Martin's majority was not at all gratifying.

This marked the beginning of the general reorganization of the Democrats of the senate. The representatives of the old regime readily recognized the necessity of making concessions, and in the selection of the steering committee, or committee on committees, the new senator from Indiana was included. This within itself was a distinction seldom, until then, accorded a new member.

It was in connection with his work on this committee that Senator Kern met the greatest embarrassment of his senatorial career, resulting in some unjust criticism on the part of his political enemies in Indiana. The determination of the personnel of the important Finance committee, it was his desire that his colleague, Senator Shively, should have a place on this committee. Not only did the senior senator desire the assignment, but he was peculiarly fitted for it by a lifetime of study of fiscal legislation. No man connected with the public life of Indiana for a gen-

eration had possessed such a mastery of the intricacies of tariff legislation. He had unhappily been deprived of the opportunity of participating actively in the discussions of the Payne-Aldrich bill by the physical breakdown which had followed almost immediately his entrance to the senate, and he had felt it keenly. But his special qualifications for service on this committee were well known by all his colleagues, and he had the further qualification of having served on the Ways and Means committee of the house. For some reason a stubborn opposition to the appointment of Senator Shively developed, and to make the situation more embarrassing it was proposed by Senator Kern's colleagues on the committee that he should accept a place on the Finance committee. In the meanwhile some senators, understanding Kern's position, called upon Shively with a frank statement of the situation, with the view to getting his indorsement of Kern's acceptance, but the senior senator, not unnaturally miffed by the attitude of the steering committee, maintained silence. At this the senators who made the attempt returned to the meeting of the committee, and, in the absence of Kern, and knowing his position, placed him upon the Finance committee. These facts are set forth because of the disposition of Senator Kern's enemies to create the impression that he had used his position on the steering committee to further his own inter-

ests at the expense of his colleague. Of interest in this connection is the fact that two years later when elected to the leadership of the senate and the chairmanship of the steering committee he voluntarily retired from the Finance committee in favor of his colleague, while permitting him to retain the equally important assignment as ranking member of the committee on Foreign Relations. Notwithstanding the persistent efforts of petty busy-bodies in Indiana to alienate the two senators, their relations warmed with their years of association in the senate and were never closer than when, on the solicitation of the dying Shively, Senator Kern called at the White House to urge the appointment as ambassador to Chili of Joseph H. Shea, who had managed Shively's campaign for the senate against Kern in the legislature of 1909.

Thus within a month after taking the oath as a senator Kern found himself in the enviable position of holding places on the Steering and Finance committees—a most unusual experience for a new senator. Among his other assignments was to the committee on Privileges and Elections, with which he was most intimately identified through his career in the senate. Before most new senators could be expected to learn their way about the capitol Kern was numbered among the leaders.

II

Senator Kern had scarcely warmed his seat in the senate before he found himself, together with seven other members of the committee on Privileges and Elections, engaged in the herculean task of investigating the charges of corruption in connection with the election of Senator Lorimer of Illinois. This required many months of ceaseless toil, and the case itself is one of the most fascinating and important in American history. Because of the enormous importance of the case and the fact that Senator Kern was forced by circumstances into the position of leadership of the forces persuaded of Lorimer's guilt I shall touch upon this phase of his career in a separate chapter. During the period of the investigation he was necessarily withdrawn from active participation in other work of the senate, and while a member of the Finance committee in charge of the Canadian Reciprocity bill, to pass which congress had been called in extraordinary session, he was unable to participate in the hearings of the committee or the discussions on the floor to the extent that he otherwise would. During the interval, however, between the beginning of the Lorimer investigation and the final debate upon the reports of the committee he assumed a task that was very near to his heart in the cham-

pionship of the Sherwood Dollar-a-Day pension bill in the senate, in the course of which he delivered the speech which attracted more general comment from the civil war veterans throughout the country than any other public utterance in forty years.

The Democratic state convention in which he was nominated for the senate had declared in favor of the immediate passage of a bill of this character, and during his campaign he had taken pains to especially indorse this plank and pledge himself to do all within his power to secure the enactment of such a law.

The election which sent Senator Kern to the senate restored the house of representatives to the Democrats for the first time in sixteen years, and General Sherwood, one of the most gallant soldiers of the civil war, who was made chairman of the Pension committee, undertook the formulation of a measure incorporating the dollar-a-day feature. This picturesque old warrior, almost eighty years of age, but as peppery in his advocacy of whatever he believed in as in the days of his youth, lived at the Congress Hall Hotel, where he came into intimate relations with Senator Kern, who undertook the leadership of the fight for the Sherwood bill after it reached the senate.

The senate, however, was still Republican, and when the house bill reached the senate it was promptly side-tracked for a less liberal measure pre-

pared by Senator McCumber, chairman of the Pension committee of the upper chamber. When the Sherwood bill provided for a straight dollar-a-day for all the remaining veterans of the civil war, the McCumber measure was based upon a scale determined by age and length of service, but providing for a dollar a day for all totally incapacitated for manual labor through disease or wounds of service origin. It was wholly unsatisfactory to the soldiers, but met the approval of the politicians and the pure patriots of the parlor and the library and editorial sanctums. And it was understood to have the approval of the president. There was not the slightest possibility for the passage of any other bill.

This, however, did not deter Senator Kern from making a spirited plea for the more liberal measure from the house. It was his first set speech in the senate, and while comparatively short was prepared with considerable care—written with a pencil upon a pad in his beautiful chirography. During the delivery of the speech that afternoon, March 16, 1912, General Sherwood sat a few seats distant, his trumpet to his ear, nodding vigorous assent, and he was given close attention by his colleagues, but there was nothing in its reception in the senate chamber to suggest the really remarkable effect it had upon the soldiers from Massachusetts to California. The press associations carried but a meager part of the speech,

but it was enough to strike a responsive chord in the men most vitally affected. The day following its delivery hundreds of letters expressive of gratitude poured in upon the senator from Pennsylvania, New York, Maryland and West Virginia; the next day brought hundreds from Ohio, Indiana, Illinois, Kentucky; and so on until the sixth day, when they arrived as numerous from Oregon and California. No speech on the pension question had attracted such widespread attention in more than a generation. Resolutions from hundreds of Grand Army posts soon followed; and then, with the publication, and distribution by request of the speech, letters from scores of posts telling of meetings devoted to the reading of the speech for the benefit of those too old to read. This speech is treasured, no doubt, to-day by thousands of these old men all over the country.

III

The extraordinary session called in April, 1911, by President Taft in the hope and expectation of the early passage of the Canadian Reciprocity bill dragged dismally through the terrific heat of that summer and did not conclude until in the last week in August. The hearings by the Finance committee were unnecessarily prolonged, and largely through the insistence of leading members of the president's own party, who feared the possible effect of the

slightest breach in the protection walls. Never, unless during the period that the Payne-Aldrich bill was in process of incubation, had the capital been so overrun with the professional lobbyists of the interests, posing as representatives of the farmers, while lolling in evening dress at night in Peacock Alley at the Willard. Senator Kern, when not engaged with the Lorimer investigation, occupied his seat at the table, and he was in hearty sympathy with the principle involved and with the patriotic purpose of President Taft, for whom he entertained a personal affection. For the purpose of convenience I shall here disregard the chronological order of events, and complete the story of his work during the 62nd congress with the exception of his most important work on the Lorimer committee, which requires a separate chapter. In doing so I shall merely touch upon incidents reflecting his views on public questions of vital interests.

In the winter of 1911-12 his position relative to the legitimate interest of the nation in labor difficulties directly affecting single states, foreshadowing the fight he was destined to make on behalf of the coal miners of West Virginia, was disclosed in the discussion of a resolution directing or requesting the Commissioner of Labor to furnish full information to the senate regarding the condition of the textile mill workers of Lawrence, Massachusetts. A strike

had been on for some time, and in addition to the most startling disclosures, through the press, of the wages, ages and living conditions of the workers, it was charged that the local authorities of Lawrence had forcibly prevented the wives of the strikers from sending their children into other states where provision had been made for their proper feeding during the continuance of the strike. An opposition to the resolution had developed in the senate under the guise of a protest against any intended federal interference with the rights of the states, very similar to that which was to be invoked in the case of West Virginia, and led by the same man, Senator Bacon of Georgia. Senator Kern participated in the debate on behalf of the resolution. This was not to be his last manifestation of impatience with the disposition to invoke the "rights" and the "dignity" of states for the prevention of federal interference with barbarous conditions affecting the lowly. The resolution was ultimately adopted in amended form, but in the meanwhile the house of representatives had entered into a thorough investigation which exposed conditions so inhuman as to shock the country.

And as the Lawrence resolution foreshadowed his views on West Virginia, the views he was to express in the Lorimer report were indicated in advance in the debate on the report of the senatorial committee, which had investigated the charge that Senator Ste-

phenson of Wisconsin had attained his seat through the wholesale corruption of voters in a primary. The accused senator, a millionaire, with no pretense to statesmanship or high political capacity, and representing the opposition to Lafollette, had admittedly turned over to his political managers extraordinary sums of money. It was his contention that this had been intended for proper purposes, the renting of halls, advertising, and the payment of the traveling expenses of speakers. It was developed that this money had undoubtedly been used for corruption purposes, but there was considerable sympathy for Stephenson, whose term was drawing to a close and who was very old and feeble. "Why disgrace him on the brink of the grave?" was the plea of his supporters. And the little frail figure with the scraggly beard and sad old eyes looking into space, while the jaws worked ceaselessly in the chewing of gum, did appeal to one's sense of the pathetic. Senator Kern admitted to a feeling of compassion for the old man whose sins had found him out, but he was unwilling to compromise a principle on that account. There were features to the Stephenson case that appealed to him as infinitely more dangerous than any developed in the case of Lorimer, for they went directly to the debauching of the electorate. During his participation in the discussion Kern scornfully assailed two sophistries dear to the corruptionist and

urged in defense of the accused—the idea that the payment of money to men “to work” for a candidate is anything other than the bribing of the man, and the suggestion that the payment of money to an editor for editorial commendation of a candidate is anything other than a bribe of the most sinister nature. These two evils—the debauching of the voter and the subsidization of the press he looked upon as the gravest danger possible to free institutions. Hating the use of money for the control of elections with all his soul, he unhesitatingly put aside his personal sympathy for a very old man, and joined the minority in voting for his expulsion from the senate, to which he ought never have been admitted.

That he was not actuated in matters of this nature by the motives of a demagogue was shown in his attitude in the vote on the impeachment of Judge Archibald, a United States circuit judge of Scranton, Pennsylvania, accused of having made corrupt use of his office. The vote was taken early in January, 1913. In the early fall of 1912 Senator Kern had entered upon the defense of the officers of the Structural Iron Workers in the federal court in Indianapolis on the supposition that the case would be concluded long before congress would convene in December. The trial dragged along through many weeks and unable and unwilling to desert his clients in the midst of their trial he was unable to return to Washington

until after the Christmas holidays. Not having had the opportunity to see and hear the witnesses he asked the senate to excuse him from voting, and his request was granted. This was characteristic. The cause of Judge Archibald was an exceedingly unpopular one, and had he been an ordinary poseur in his hatred of corruption in high places he could have voted in accord with what he knew public opinion to be. But a poseur he was not—and he always catered to the commendation of his own conscience.

In less than fifteen months after entering the senate he had taken a position by common consent among the Democratic leaders of that body, and had established a national reputation as an enemy of political corruption, as a friend of the civil war veteran, and as the special champion in the senate of the working classes of the country.

CHAPTER XII

KERN'S FIGHT AGAINST LORIMERISM

I

SENATOR KERN had hardly had time to acquaint himself with the capitol before the senate assigned to him one of the most unpleasant, onerous and important duties of his career in placing him on the sub-committee of the committee on Privileges and Elections to investigate the charge that Senator Lorimer had entered the senate through the corruption of members of the Illinois legislature. In the election of 1908 the primary choice of the Republicans for the senatorship was Senator Hopkins, the Democratic choice Lawrence B. Stringer. The election resulted in 127 Republicans and 77 Democrats being sent to the legislature, and in the regular order the Republican candidate would have been promptly elected to the senate. Many Republicans, however, had refused to abide by the edict of the primary, and a prolonged deadlock was the result. The balloting extended through many weeks, and in the meanwhile the Republicans, engaged in a bitter battle in the United States senate over the Payne-Aldrich tariff bill, and with numerous schedules in danger of defeat because of the disaffection represented by the

opposition of Dolliver, Beveridge and others, became insistent upon the strengthening of their lines through the termination of the deadlock in Illinois and the election of a Republican senator. Thus the senatorial contest at Springfield took on a national importance. The Republicans were suffering through the deadlock, which deprived them of an additional vote, and the Democrats were having all the advantage. Suddenly fifty-three Democrats, disregarding the plea of their national committeeman that they remain loyal to their party's candidate, joined with fifty-five Republicans and elected William Lorimer, a reactionary Republican who could be depended upon by the Aldrich-Penrose forces in the tariff fight at Washington. Almost a year later *The Chicago Tribune* published the sensational confession of Charles A. White, a Democratic member of the legislature, implicating other members in a wholesale purchase under the engineering of Lee O'Neil Browne, the leader of the majority faction of the Democrats. This was followed by the filing of formal charges in the senate against Lorimer, and an investigation was instituted under the direction of a sub-committee of the committee on Privileges and Elections under the chairmanship of Senator Burrows of Michigan. This investigation was far-sical in many respects, and the committee reported in substance that the charges had not been sustained.

The evidence that was permitted to leak through, however, was so damning and convincing in its nature that a minority report was submitted, and powerful speeches against the "blond boss," as Lorimer was called, were delivered by Senator Root and Beveridge. The press of the country generally characterized the report of the committee as a "white wash," and the public was aroused.

Almost a month after the congress had adjourned a committee of the state senate of Illinois, investigating the charges, was informed through the editor of *The Chicago Tribune* that Clarence S. Funk of the International Harvester Company had been approached immediately after the election of Lorimer by Edward Hines of the Lumber Trust with the information that it had required \$100,000 to elect Lorimer, and the request that Funk's company contribute \$10,000 toward the fund.

Immediately afterward Senator Lafollette introduced a resolution in the United States senate providing for a new investigation.

Thus was inaugurated one of the most exhaustive and significant investigations ever held by the United States senate, which was to delve deep into the most sinister influences that assail the integrity of free institutions, the debasing effect of bi-partisan combinations of politicians for personal gain, the corrupting influence of powerful financial elements upon the

public life of the nation, the all-too frequent susceptibility of law makers to the blandishments of the bribe giver. For 102 days the committee was to listen to the unraveling of one of the most startling tales of political debauchery ever told. Before it was to file an incongruous company of witnesses—leaders of the United States senate, such as Aldrich and Penrose, potential political leaders like Roger A. Sullivan, governors and former governors, the millionaire and the beggar, the briber and the bribed, journalists and bartenders, detectives and street car conductors, drunkards and reformers, the high and low, the rich and poor, the good and bad. It was to become a participant in one of the most tremendous political dramas ever enacted in America—comedy treading on the heels of tragedy, to be followed by burlesque and vaudeville. It was to have a hundred million people, the perpetuity of whose institutions was at stake, as an audience, and they were to await with the keenest interest the moral of the play.

And in this drama Senator Kern was soon to play the most important rôle, from the viewpoint of those who believed the extermination of Lorimerism to be essential to the safety of free institutions. There was nothing theatrical about the setting of the play. With the exception of a few weeks in Chicago the committee held its hearings in a prosy, unadorned, and small room on the ground floor of the senate office building.

The witness chair in the center in the front of the room—to one side the long table of the press correspondents, at which sat some of the cleverest men of the profession—on the opposite side the members of the committee, and stretching back to the wall chairs for the audience. These were often, for the most part, unoccupied, but usually they were filled and many were standing—attaches of the capitol who dropped in while on their errands to catch a few words of the witnesses. These attaches were for the most part intense partisans of the accused senator, who found ways of making their feeling felt. And strangely enough the greater part of the audience through those hot summer days of 1911 and the winter days of 1912 were intensely loyal to the blond boss—so much so that the capitol policeman stationed in the room was requested by a Lorimer partisan to move the parties who were not sufficiently demonstrative in their jubilation when the accused man scored.

In the front row sat Lorimer—bland, humble, the picture of innocent martyrdom—a pose he consistently maintained until he walked out of the senate at the behest of his colleagues and to the applause of the republic. Nothing so damaging as to disturb his composure, nothing so startling as to coax to his placid features an expression of surprise. And beside him sat the Symbol of his ruin—Edward Hines, the

millionaire lumber man whose boast of having "put Lorimer over" whispered in the lobby of the Union League Club at Chicago resounded through the country. This strangely indiscreet, purse-proud exponent of Big Business at its worst hovered near Lorimer like a shadow. And there too beside him sat the clever, brilliant, sarcastic and witty Judge Henecy, his attorney—as resourceful and able as any lawyer in the country. Across the room at another table were the counsel of the committee, Healy and Marble, keen, alert, as resourceful as the judge and buttressed about by a better cause.

Senator Kern was not eager for the task the senate had assigned him. It meant his practical withdrawal from all other senate activities for an indefinite period, and his concentration as in a case in court upon every word of evidence adduced. While morally positive of Lorimer's guilt from the beginning, he was early convinced, and his sense of duty gradually forced him into greater and greater prominence as a developer of the case against the accused. A man of kindly instincts, he had never relished the rôle of a prosecutor, and in his private practice of his profession had seldom appeared except in defense in criminal cases. But once convinced of Lorimer's guilt, he determined that every possible avenue of information tending to uncover what he considered a great crime against American institutions should

be followed to the end. It was early whispered about and generally credited that the second investigation, like the first, would end in a white wash. Very early he was startled to find from their general attitude that the majority of the committee were apparently not impressed by what he considered overwhelming evidence of guilt. The honesty of this attitude he never questioned, but, convinced himself, he set himself to the task of developing the evidence along the line of his own conviction. This led him to the position he unquestionably held at the conclusion of the hearings as the leader in the fight for the unseating of the blond boss.

II

The line of cleavage on the committee was clear very soon after the hearings began. Feeling as he did early in the proceedings, that a majority of the committee would support a report favorable to the accused, Kern, intensely convinced of his guilt, keenly felt the responsibility which fell to him. This feeling was shared by two other members of the committee, Kenyon and Lea. It was during the period of the Lorimer hearing that the feeling of mutual respect and affection sprang up between the three men which continued until Senator Kern's death. All three were new members of the senate, but Kern had a long career behind him and was more than sixty years old, while Kenyon and Lea were

unusually young and comparatively new to public life. They were both of the same general type and this a type that strongly appealed to the older man—the clean-cut, buoyant, independent, courageous and incorruptible type, bubbling with the enthusiasms of youth, and ardently anxious to serve the country according to their light. Both were men of vigorous mentality, keen and alert and “spoiling for a fight” with such wrongs as might present themselves, and both were skilled lawyers and competent for the task assigned them. It was most natural that young men, new to the senate, and sharing in a desire to serve the people, should have drifted together; the fact that both drifted toward the veteran of sixty was wonderfully complimentary to the character of the older man. Their common hatred of political corruption, their common indifference to party lines where corruption was involved, their common contempt for the fetish of “senatorial courtesy” which has so frequently served a sinister end, and their common conviction of the guilt of the blond boss, gave them a common cause, and the three stood together, drawing closer all the while, throughout the long-drawn battle. When the committee was not in session the two younger senators frequently called at Kern’s office for informal discussions of the evidence. “My boys,” Kern called them. And to a somewhat less degree he became strongly attached

to John Marble, the brilliant young lawyer employed by the committee as counsel. The fervor and whole-heartedness with which the lawyer threw himself into the preparation of his case and into the cross-examination of witnesses early won his admiration. He loved youth, with its shining armor, and especially when he conceived it to be "fighting the battles of the Lord." The brunt of the actual battle against Lorimerism was thus waged by youth grouped about the venerable statesman to whose judgment it often looked for guidance on questionable points.

And Kern was well qualified for leadership. His almost half century of participation in politics and association with politicians had left little for him to learn of the ways and wiles of the breed. He knew how the game was played according to Springfield, for that capital of Illinois had no monopoly on the combination of bi-partisan politicians with unscrupulous business interests. It was not easy to deceive him. And here, too, his unusual gift at cross-examination which had been his forte in the trial of cases all his life was to stand him in good stead. He knew men, understood human nature, and was quick in the appraisal of the character and truthfulness of witnesses. Nature, acquirements and character combined to make him an important factor in the extirpation of Lorimerism.

III

An examination of the voluminous evidence in the case will disclose that the majority of the committee took little or no part in the examination of witnesses, and the major part, and practically all the cross-examination of Lorimer witnesses was done by the three members who came to the conclusion of Lorimer's guilt, Kern, Kenyon and Lea. Senator Kern was the most active.

The theory on which Kern worked after a careful reading of the evidence before the Burrows committee and the Helm committee of the state senate of Illinois and the statement of Funk was about this: Edward Hines, interested in the lumber schedule of the Payne-Aldrich bill and lobbying in Washington, was urged by Aldrich and Penrose to help hurry a new Republican vote into the senate from Illinois to help out in the tariff fight. After conferences it was agreed that Lorimer should be the choice, and Hines undertook to put the agreement into effect. He financed the fight for Lorimer. The money was used through the management of Lee O'Neil Browne, the clever leader of the majority wing of the Democrats in the lower house of the legislature, and with the knowledge of Lorimer. He was absolutely positive that the wholesale defection of the Democrats to Lorimer could only have been the result of cor-

rupt influence because the election of a reactionary Republican senator might, in view of the conditions surrounding the tariff fight in the senate, determine a national policy to which Democrats were elementally opposed and upon which they had made their campaign one year before. Had these Democrats gone to a Republican who would vote with Dolliver and Beveridge he might not have been so sure. Going to Lorimer, he was predisposed to the belief that money had been used. This frame of mind manifested itself repeatedly in all his examination of political witnesses. He appealed to Governor Deneen for one reason for Democrats deserting their party to vote for a reactionary Republican under conditions existing in Washington; to Yates, to Hopkins, to Stringer, to the members of the legislature who deserted and without once securing a plausible reply.

The hatred Senator Kern engendered at this time among the friends of Lorimer or the men accused did not appear upon the surface. The blond boss proved himself a consummate artist in the concealment of his hostility until after Kern had summed up the case against him.

But the existence of this hostility was not concealed. For a period of two months there was scarcely a day that did not bring its batch of scurrilous unsigned letters with a Chicago date mark.

Meanwhile the hearings seemed destined to drag

on interminably. Long before the last witness was heard enough evidence had been submitted upon which any member of the committee might have formed an opinion. Newspapers began to hint that the purpose was to tire and disgust and confuse by the accumulation of the pages of the testimony.

The official stenographer of the committee throughout the hearings had been Milton W. Blumenberg, who stood high in his profession. One Saturday afternoon when the Burns stenographer was testifying, Blumenberg stood behind his chair looking at the witness's notes. The hearing was adjourned for dinner to be renewed in the evening. The evidence disclosed that upon leaving the room on adjournment Blumenberg met a woman employed by the committee who immediately, and, strangely enough, challenged his opinion on the genuineness of the notes. He declared them "manufactured," "faked," and immediately after that Edward Hines and others of the Lorimer party appeared upon the scene and Blumenberg's opinion was repeated for their edification. At the hearing that night Blumenberg broke in unexpectedly with a declaration that the notes were manufactured, and when the startled members of the committee undertook to question him as to his motive they were told they were "not the most important people in the world." He was immediately placed under arrest for contempt and

placed in the custody of the sergeant-at-arms, with instructions that no one should be permitted to communicate with him. The whole atmosphere had become so colored with the idea of corruption that the incident created a painful impression. He was discharged from the service of the committee, and the matter was dropped on the representation of Blumenberg's friends that he was the victim of a nervous breakdown.

But hard on the heels of this incident another sensational incident fed the public curiosity when a twenty-year-old telegraph operator of the Postal Company, stationed at the New Willard Hotel, who had sent a telegram for the Burns detective, testified that Edward Hines had attempted to bribe her with a roll of bills in his hand to let him read the message given in by the detective. The girl had not sought the notoriety and was so transparently truthful in her charming girlish way that no one not directly interested in the case could have doubted her veracity. Thus the trail of the serpent seemed to lead directly back to Washington.

IV

After the conclusion of the hearings the chief concern of the supporters of Lorimer was to postpone a vote in the senate as long as possible; and the first step toward this end was to indefinitely postpone the

filing of a report. The hearings closed February 9, 1912, and it was not until May 20th that a report was presented to the senate, and it was largely due to the insistence of Kern, Kenyon and Lea that the delay was not greater. The proceedings of the committee when it met on March 27th to vote on a report are of historic importance and belong to the public.

The first resolution offered by Senator Jones was to the effect that nothing had developed in the hearings to justify a reversal of the solemn and deliberate judgment of the senate in the vote on the result of the first hearings. This challenge was promptly met by Senator Kern in the following resolution:

"That in the opinion of the committee there were used and employed in the election of William Lorimer to the senate of the United States corrupt methods and practices."

Before a vote was taken on the Kern resolution, which was offered as a substitute for the Jones resolution, the committee voted on an amendment to the latter offered by Senator Lea to the effect that the investigation had disclosed that corrupt practices and methods had been employed. This went directly to the heart of the matter and was defeated by a vote of five to three, Kern, Lea and Kenyon voting for the amendment.

Senator Lea then followed with a point of order to the effect that the Jones resolution was not respon-

sive to the resolution of the senate authorizing the investigation in that the committee was only instructed to investigate and report whether corrupt methods and practices had been used in the election of Lorimer. Senator Dillingham promptly ruled this out of order; Lea appealed from the decision; Jones moved to lay Lea's appeal on the table, and this was done by a vote of four to three, Kern, Kenyon and Lea voting against the tabling of Lea's appeal.

Kern's substitute motion was then defeated by the usual vote of five to three and by the same vote the Jones resolution was adopted.

This, however, was not sufficiently vindictive of the blond boss, and Senator Jones moved a resolution denying the existence of any proof indicative of the existence of a "jackpot" fund in the legislature that elected Lorimer "other than the statements of White, Beckemeyer, Link and Holslaw that they were paid money after the election." Senator Kern moved to amend by adding after the word "Holslaw" the words "and certain circumstances corroborating said statements." The Kern amendment was defeated by the usual vote of five to three.

Senator Kern next introduced the following resolution:

"That in the opinion of this committee there was a fund distributed in the city of St. Louis to certain members of the Illinois legislature who had voted

for William Lorimer and also that Senator Broderick paid to Senator Holslaw in the city of Chicago money on two occasions."

This was met at once by Senator Johnston with the amendment that if money was paid out at Chicago or any other city it was not to vote for Lorimer. After some discussion Senator Lea offered a substitute for Kern's resolution, which the latter accepted, to the effect that on certain specified dates certain specified men distributed money to members of the Illinois legislature at St. Louis. The evidence had been overwhelmingly convincing on this point, but the resolution failed to secure votes other than those of Kern, Kenyon and Lea. Other resolutions followed completely and rather aggressively exonerating both Edward Hines and Lorimer, and the line of cleavage on the committee was unmistakably made.

The committee having taken its stand the three anti-Lorimer senators were insistent upon an early report to the senate. Night after night Kern, Kenyon and Lea met to go over the evidence with a view to the preparation of the minority report. Acting upon the theory that if they could show from the evidence that votes had been purchased for Lorimer their position would be vindicated and unassailable, they agreed to brush aside all reference to much of the evidence and to concentrate on the essentials and to make their report both brief and vigorous. Ex-

pressing a vigorous dissent from the proposed white washing of Hines by the majority, expressing confidence in the truth of the testimony of Funk and Burgess, they briefly analyzed the evidence of a number of the witnesses, and concluded:

"Believing that the confession of the members of the legislature, strengthened by corroborating circumstances and by other evidence relating to the members of the legislature who did not confess, establish conclusively not only that at least ten members were purchased for the purpose of electing William Lorimer to the senate, but that the record reeks and teems with evidence of a general scheme of corruption, we have no hesitancy in stating that the investigation establishes beyond contradiction that the election of William Lorimer was obtained by corrupt means and was therefore invalid, and we submit the following resolution:

"Resolved, That corrupt methods and practices were employed in the election of William Lorimer to the senate of the United States from the state of Illinois, and that his election was therefore invalid.

"WILLIAM S. KENYON.

"JOHN W. KERN.

"LUKE LEA."

While all three of the minority members were active in the preparation of their report, there appears to be no doubt that Senator Kern's judgment was largely the determining factor in laying out the line of battle.

The majority report was lengthy and argumentative, covering ninety pages, while the minority were able to state their case in twenty-two. The moment it became known that a majority of the committee had vigorously espoused the cause of Lorimer the press and magazines of the country declared that the nation was to be treated to another white washing of Lorimer. *The Nation's* comment was that:

. . . "All that is left for the senate to say is whether its sense of smell is less acute than that of the country."

V

The filing of the reports did not end Senator Kern's labors in the case, for it was decided that he should open the debate in favor of the expulsion of Lorimer and analyze the evidence submitted for the benefit of the senate and the country. It is little less than remarkable that he was not given greater credit by the press of the country for the part he played in ridding the senate of Lorimerism. To satisfy myself that his was the dominating part I have appealed to the three men who were in position to know, the two senators who acted with him and the Washington correspondent of *The Chicago Tribune*, who followed every detail of the case. The three unite in crediting Kern with having been the dominating influence. Senator Kenyon said that "John Kern's

ideas were the predominating influence." Senator Lea said:

"Senator Kern was a dominating force in that part of the Lorimer committee that resulted in the full investigation of the case. The committee was intended by some to be a white wash and it was Kern's determination to prevent that. His insight into human nature and knowledge of men enabled us to extricate from unwilling witnesses incidents in Illinois politics which gave color and meaning to much testimony that would otherwise have been barren of significance. Again Senator Kern's tact prevented much friction in the committee that might have resulted in outbursts that would have diverted attention from the main issue—the guilt or innocence of Lorimer. Again Kern's droll and ridiculing sense of humor so discomfited many of the witnesses that they could not adhere to their prepared testimony."

John Callan O'Loughlin said:

"I am so glad that you are writing the biography of Senator Kern. He was a big man, straightforward, wholesome, and one with a high ethical sense. His conduct in connection with the Lorimer case in itself justifies the country in holding up his memory to remind future generations of what they owe to him.

"Mr. Kern, when he began his duty as a member of the Lorimer investigating committee—it was a distasteful duty—realized as did we all that the country stood at the parting of the ways. Whether cor-

ruption was to continue in connection with the election of United States senators or whether the people were to be given an opportunity to have their own representatives in the upper house was the question he was called upon to investigate and determine. I know the pressure that was brought to bear upon him directly, indirectly, openly and insiduously, and I know that he stood up against it with that whole-hearted courage which he manifested in other matters he faced.

"As a member of the investigating committee it was Mr. Kern's cross-examination which frequently brought out points that even members of the committee were endeavoring to cover up. If he had not been on the committee, I hesitate to say what the result might have been. Not only in the committee, but on the floor of the senate he pressed the fight against corruption. His arguments, or rather his presentation of facts, were absolutely convincing, but more than this, the fact that he had come to the conclusion that Lorimer's seat had been purchased unquestionably influenced senators who recognized his integrity and the reliability of his judgment.

"There is no doubt that the expulsion of Lorimer from the senate, which was due largely to Senator Kern's efforts, brought about the amendment to the Constitution for the direct election of senators. In itself, this is a monument to Mr. Kern."

VI

It fell to Senator Kern to open the debate on the reports of the committee and to review the evi-

dence upon which the minority had reached its conviction of the guilt of the accused senator. It was not an easy task to adequately, concisely, survey the field that had been covered by hearings covering more than a hundred days, requiring 8,588 printed pages, and including the testimony of 180 witnesses. Kern's training and skill as a lawyer made it possible for him to quickly brush aside the non-essentials, but it was necessary for him to go over the greater part of the record for the proper verification and marshaling of his facts. He spent many days carefully going through the voluminous testimony jotting down his notes on scrap paper, and the greater part of the week preceding the delivery of his speech found him at his room at Congress Hall engaged in the writing of his speech—for the major part of it was reduced to writing and read in the senate. The speech was delivered in four parts on four separate days, and when he began the delivery of the first part nothing of that which had been prepared was to be delivered in the second part had been prepared. In fact each day he spoke found him working upon his speech up to the moment he was summoned to the senate, and he found time for the typewriting of practically none of it. The Press Gallery was clamoring for advance copy, but not a line was furnished any paper in advance of its delivery, and the Chicago papers which published it

in full were forced to make special arrangements with the official reporter of the senate. He was physically almost exhausted when he began and almost ill before he concluded. That it was a powerful, unanswerable, logical and eloquent arraignment of the accused senator was the consensus of opinion among the lawyers of the senate, and while other senators spoke with comparative brevity in favor of the minority report, the ground had been so exhaustively and conclusively covered by Kern that these confined themselves to one or two features of the case. He did not spare in his sarcasms the untenable positions of the majority members of the committee. He took the position that members of the legislature had been bribed; showed from the evidence that there was no escape from that position; traced the relationship between those members and Lee O'Neil Browne, the Lorimer leader, and between Browne and the senator and then invited the senate to accept the reasoning of the majority report if it could. The plea of *res adjudicata*, upon which the friends of Lorimer made their final stand, and which was suggested by the Lorimer attorney in the last hours of the hearings, appealed to Kern as a brazen daylight attempt to thwart the ends of justice.

Beginning on June 4 he closed after an exhaustive analysis of the evidence on June 8th with an eloquent denunciation of the bi-partisan system of which

Lorimer was a member, a beneficiary, and was to become a victim.

Almost a month later the discussion was resumed with Kern departing radically from his custom of not interrupting senators. Time and again he challenged senators speaking for the majority report with the evidence and seldom without disclosing the weakness of the speaker's contention. It is not surprising in view of the important part he played in the development of the case against Lorimer and Lorimerism that the anonymous attacks that had been made upon him should find open expression on the floor of the senate. This attack came in the course of Lorimer's speech in his own defense.

This speech was in many respects a remarkable one; not remarkable in that it was convincing, for the speaker made no attempt to discuss the evidence, but in its eloquence and human appeal. It was a masterly appeal to the emotions from a consummate criminal lawyer conscious of a desperate cause and bent on diverting the jury from the irresistible facts to the non-essentials. The manner of the delivery would have rejoiced the heart of a Belasco. It was dramatic, intensely so. No one listening to Lorimer as he spoke that day to a packed gallery and with the floor of the senate thronged with attaches and members of the house would have been surprised had he been told that the speaker was one of the greatest

jury orators in the country. It was in the course of this speech that Lorimer entered upon a bitter attack upon Kern which indicated unmistakably the object of his special animus.

At the time he began this attack Senator Kern, who had been ill for a month, but able to attend the sessions of the senate, was lying down in his room in the senate office building asleep. As soon as the attack began one of his friends sent word of the trend of the Lorimer speech and Kern immediately started for the capitol. He was met in the subway under the capitol and told of the nature of the attack. It was then and there decided that unless the attack became too virulent Kern should utterly ignore it. Those participating in the conference were agreed that such an incident as a personal exchange between Kern and Lorimer could only tend to divert attention from the real issue and to possibly postpone the hour of voting. With this understanding Kern proceeded to the senate chamber and finding a chair within a few feet of Lorimer turned it so as to face the speaker, and in that position remained through the remainder of the speech. He found no occasion to interrupt.

VII

The scene in the senate chamber at the conclusion of Lorimer's speech in his own defense was dramatic. The walls were lined with members of the

house and attaches of the senate, the press gallery was filled to capacity, the other galleries packed with men and women, and from the latter came stifled sobs as Lorimer rather pathetically described the consolation that would counter affect his probable humiliation in going home to the embrace of his family. With an impassioned assertion that his expulsion would be a "crime" of "the senate of the United States," he paused for a moment, still a picture of outraged innocence, and then in his best theatrical manner said, "I am ready," and sank exhausted into his seat. The roll call on the final vote was followed with intense interest, not to determine the result which had now become inevitable, but to satisfy the curiosity of spectators as to the position of individual members. Throughout the roll call the accused senator sat expressionless, as during the hearings, and even the trembling voice of Cullom, his venerable colleague who had voted to sustain him over a year before, casting a vote for his expulsion had no effect. The breakdown of the indomitable Tillman in reading his explanation of his vote against expulsion added an unexpected thrill to the occasion.

The vote was announced in the official tone of monotony.

The minority report was adopted by a vote of 55 to 28. Senator Newlands immediately rose in the resulting silence to present the credentials of a new

senator and the business of the senate proceeded as though the waters of oblivion had not just closed over a career.

For a few moments Lorimer sat motionless in his seat—then rose and looking neither to the right nor the left passed back the center aisle and into the Republican cloak room for the last time. At that moment there were probably some who felt a fierce joy in his degradation, but Senator Kern was not one of these.

CHAPTER XIII

KERN'S POSITION AT THE BALTIMORE CONVENTION

SENATOR KERN had not completely recovered from the strain of the Lorimer case when he found himself unexpectedly precipitated into the maelstrom of the Democratic National Convention at Baltimore, unquestionably the most remarkable assembly of the representatives of any party ever held in America. There have been many versions of his part in the important features of the convention, but the strange thing is that there has been such a general ignorance of the fact that he was in truth one of the potential figures in that great drama. It is known to all, of course, that he was the chairman of the committee on Resolutions and Mr. Bryan's candidate for the temporary chairmanship, but the circumstances under which he became the candidate, the importance of his strategy in that contest, and the fact that but for his dissent his name would have been presented as a presidential candidate at a time when the convention seemed hopelessly deadlocked and with the support of a number of the most potential states, have never figured in the public's estimate of his rôle. It is the intention here to relate this story as fully as possible without unpleasantly affecting



SENATOR KERN WITH HIS FIRST GRANDCHILD, GEORGE B.
LAWSON, JR., AND JULIA KERN LAWSON

several prominent politicians who are still upon the scene.

I

On the Saturday before the Baltimore convention met Senator Kern, who had gone to Kerncliffe for a much-needed rest, returned to Washington in comparative ignorance of the developments in the convention city. The news that awaited his return was not of a pleasant nature.

The more important news he learned that hot afternoon as he sat in front of the Congress Hall Hotel was that the National Committee had selected Alton B. Parker of New York for the temporary chairmanship to deliver the keynote speech and that this had been challenged by Mr. Bryan, who had made it quite clear that he would fight. At that time he had no idea that he would be called upon to play any part in the contest other than to cast his individual vote in the convention. But there were various embarrassing angles to the situation thus presented. Many years before he had formed a personal friendship for Judge Parker and this friendship had grown with the years. The National Committeeman from Indiana had voted for Parker, which complicated the situation from the viewpoint of state politics. He entertained a momentary fear that the prospective fight might tend to the disruption of the party

and the destruction of its prospects. But at the same time he understood perfectly the motives actuating Mr. Bryan and sympathized with them. With some forces known to be reactionary, lining up aggressively behind a man thought by the masses of the party west of the eastern mountains to be reactionary in his trend of thought, and with Mr. Bryan sounding the warning that the selection of that man for the temporary chairmanship would be a triumph for reaction, Senator Kern instantly knew his position in the fight. It was not a pleasant one; it came to be a far more important one than is generally known.

The National Committee had entrusted a sub-committee of eight to select the temporary chairman and this committee first proffered the position to Mr. Bryan, who declined, and then to Senator Kern, who refused to serve. It was the suggestion of both Mr. Bryan and Senator Kern that a thoroughly progressive Democrat, nationally known as such, should be chosen. The forces of Champ Clark had a candidate who measured up to the desired standard in Ollie James of Kentucky, then a member of the house, and the Wilson forces favored the election of Robert L. Henry, a representative from Texas, who also harmonized with Mr. Bryan's idea of a temporary chairman. When the sub-committee met eight of the sixteen voted for Parker, three for James, three for Henry, one for Kern and one for O'Gorman.

The one vote cast for Senator Kern was not the vote of the Indiana member, Mr. Taggart. The Indiana member did not vote for Kern because the senator had written him personally that he did not desire the position.

With this vote the fight passed to the full membership of the National Committee, and Bryan with a vigorous pen began a determined warfare through the press against the choice of the sub-committee. Realizing the importance of the issue, the Wilson followers, in view of Mr. Wilson's telegram to Bryan accepting the latter's view of the selection of Parker, withdrew the candidacy of Henry and went over to James. On the afternoon of the day before the full committee met in the evening, Bryan declared through the press that in the event the organization recommended Parker he would oppose him on the floor of the convention with another candidate. The issue was clean-cut. That night the full committee selected Parker by a vote of 32 to 20 for James and 2 for O'Gorman. The fight was on.

Mr. Bryan did not want to be the candidate against Parker. It was his plan to serve notice on the rank and file of the party throughout the country of the reactionary trend of the convention through a powerful speech he expected to make in presenting the name of his candidate. This he could not do were he himself the candidate. His first step was to ask

Ollie James to permit the presentation of his name, but having been the avowed candidate before the committee of the Clark forces, the managers of the speaker of the house objected to James being a candidate. He then appealed to Senator O'Gorman, but found that he was pledged to Parker. Then it was he determined upon presenting the name of Senator Kern.

There were several reasons bearing on state politics which made the suggestion distasteful to Kern. He was interested in the nomination of Governor Marshall for the presidency, and the reasons which impelled the Clark forces to object to the candidacy of James made the idea unpleasant to the Indiana senator. All the various reasons were given Bryan in an effort to dissuade him from his plan to nominate Kern, but without effect. Meanwhile many of the senator's friends became concerned over the proposal. While it did not operate in determining Kern's state of mind, some of these friends, anticipating the long deadlock which occurred in the balloting for the presidency were convinced that should the convention be forced to go outside the list of avowed candidates no one would loom so promisingly as the Indiana senator, and they were anxious to prevent his prominence in connection with a fight. The strain told physically upon Kern. Many of his friends, and notably Senator Luke Lea of Tennessee,

made frequent efforts to persuade the Nebraskan to nominate some other man. Mr. Kern himself had but little hope of their success. The night before the convention met while dining with Lea he made this clear. The Tennessean made another trip to Bryan's room and brought back the message that the latter had closed the subject with the remark, "I intend to nominate John to-morrow, and he will have to do what he thinks best about it." It was after this that Kern himself made a last attempt. "He left my room," writes Mr. Bryan to me, "late the night before the convention without a positive reply. He urged me to be a candidate, but did not decide the question whether he would accept. Next morning I heard a rumor that he might put me in nomination, but I had explained to him that I wanted to present to the convention the reasons why Parker should not be nominated and that I could only do that in a speech presenting the name of some one else. Not hearing directly from Kern, I presented his name and then he played his part, and it was a very skilful part."

For the story of Senator Kern's part between the time he left Mr. Bryan's room late that night and the following morning I am indebted to Mrs. Kern, who was at the convention. He went directly to his own room and told Mrs. Kern everything that had transpired. He was so worried that he slept none

that night, and his nervous condition brought on an illness that made sleep impossible. It was during that restless night that he planned his part on the morrow, and the first person to learn of his plans was Mrs. Kern, to whom he detailed his purpose early in the morning as he was sitting on the edge of his bed drawing on his shoes. With this exception he gave no indication of his intention. Contrary to the general assumption at the time that the scene in the convention that day had been planned by Mr. Bryan, the Commoner knew absolutely nothing about it until he witnessed it on the platform. "The plan was his own so far as I know," Mr. Bryan tells me, "and no actor ever did his work more perfectly."

Looking down from the gallery upon the convention that day one could easily imagine a storm-tossed sea. The excitement was intense. Great throngs futilely beat against the doors for admission. The day was intensely warm. The session was rich in the dramatic from the moment the venerable Cardinal Gibbons in his scarlet robes passed down the center aisle for the opening invocation until the result of the chairmanship fight was announced. The feeling on the part of Bryan's enemies among the delegates had been intensified during the night, and there was some concern among the conservative and thoughtful lest the Commoner might be insulted so flagrantly as to result in a general resentment over the country.

When the familiar figure of the Commoner appeared in the convention he was given a remarkable ovation, and when a little later Senator Kern entered Bryan was given another demonstration. These exhibitions of devotion did not tend to sweeten the temper of his enemies, and when he appeared upon the platform to deliver his speech the hiss was not absent from the general turmoil. Seldom has the great orator appeared so majestic as he did in this fighting speech. There was something strangely hard, steel-like, in the man that those who had heard him frequently on less momentous occasions could not recognize. A more militant figure never faced a hostile crowd—and there were enough enemies in the convention to give it the appearance of hostility. Time and again he was compelled to pause by the hisses and imprecations, but he stood there immovable like a stonewall waiting for the storm to subside sufficiently for him to make his voice heard above the din. That speech made history—more so than the Cross of Gold speech in 1896. With the general purport of the speech we are not here concerned, for it is well known. But we are interested that in that portion of the speech having to do directly with Senator Kern. Here he said:

“It is only fair now that, when the hour of triumph has come, the song of victory should be sung by one whose heart has been in the fight. John W. Kern

has been faithful every day during these sixteen years. It has cost him time, it has cost him money, and it has cost him the wear of body and of mind. He has been giving freely of all that he had. Four years ago, when the foundation was laid for the present victory, it was John W. Kern who stood with me and helped to bring into the campaign the idea of publicity before the election which has now swept the country until even the Republican party was compelled by public opinion to give it unanimous indorsement only a few weeks ago.

"It was John W. Kern who stood with me on that Denver platform that demanded the election of senators by a direct vote of the people, when a Republican national convention had turned it down by a vote of seven to one, and now he is in the United States senate, where he is measuring up to the high expectations of a great party.

"He helped in the fight for the amendment authorizing an income tax, and he has lived to see a president who was opposed to us take that plank out of our platform and put it through the house and senate and to see thirty-four states of the union ratify it. And now he is leading the fight in the United States senate to purge that body of Senator Lorimer, who typifies the supremacy of corruption in politics.

"What better man could we have to open a convention?

"What better man could we have to represent the spirit of progressive Democracy?"

As Mr. Bryan was concluding his remarkable speech Senator Kern appeared upon the platform.

No one knew his intent. And when the Commoner sat down, both cheered and hissed, and Kern claimed the recognition of the chair, a hush of expectancy fell upon the great convention. Throughout his speech, in some respects one of the most dramatic and effective ever delivered at a national convention, he was given the most respectful attention. Pale and wan from his sleepless night, he looked frail, but his voice was in excellent condition, and the interest of the delegates in his message was so intense that little difficulty was found in hearing him in the most remote portions of the gallery. As he referred to the time in his youth when, in 1872 he attended a Democratic national convention in Baltimore and said that the enthusiasm for Democracy in his young heart then was "no greater than that which glowed in his old heart now" he made a subtle appeal. His almost affectionate reference to his personal friendship for Judge Parker predisposed the followers of the New Yorker to a friendly attitude toward the speaker. And when he made his dramatic personal appeal to Parker, seated in the New York delegation, to join with him in the interest of harmony in withdrawing, and in deciding upon some one of numerous men he mentioned, the scene was almost theatrical. Here and there were murmurs, and Parker was seen engaged in earnest, animated conversation with his colleagues. There is no record of the nature of that conversation.

There can be little doubt, however, that had he been an absolutely free agent at that moment, with no sense of obligations to those who were supporting him, he would have responded in the spirit in which the proposition was submitted. With Kern standing in silence waiting for the hoped-for answer, with Parker surrounded by gesticulative men, with the convention growing nervous under the tension, the scene was almost theatrical. And when, on finding that Parker would not respond, Kern turned to Charles F. Murphy, the Tammany chief, referring to him as "the leader of the New York Democracy, who holds that democracy in the hollow of his hand" and made the appeal to him, it was as though a bomb had been dropped from the ceiling. Receiving no response from Murphy, who sat in his seat stolid and unmoved, the attitude of Kern changed instantly from supplication to defiance, and with the declaration that if the contest must be "between the people and the powers," there was but one man to lead, and withdrew his own name and nominated Bryan it was like the startling effect of an unexpected thunderbolt. This remarkable speech follows:

"Mr. Chairman and Gentlemen of the Convention—I desire a hearing in order that I may state my reason for not desiring to enter the contest for temporary chairman of this convention. I believe that by forty years of service to my party I have earned

the right to a hearing at the hands of a Democratic convention. I hail from the state of Indiana, which will shortly present to this convention for its consideration the name of one of the best, truest, and most gallant Democrats on earth, in the person of the Hon. Thomas R. Marshall, the governor of that state.

"I desire to take no part in this convention that will in any wise militate against him or against his interests, which all true Indiana Democrats this day loyally support. I have been for many years a personal friend of the gentleman who has been named by the national committee. Many years ago, when Judge Parker and I were much younger than we are now, we met in a hotel in Europe and became warm personal friends. That was long before his elevation to the chief justiceship of the court of appeals of his state. Since that time I have enjoyed his friendship. He had had mine. I have accepted the hospitality of his home, and in 1904, when he was a candidate for the presidential nomination, moved largely by that personal friendship, I enlisted under his standard for the nomination long before the convention, and went through that great battle at St. Louis in his behalf. In that campaign, in response to a request of Judge Parker personally made to me, I, on account of my friendship for him, took the standard of a losing cause as candidate for governor of Indiana, and carried it on to defeat, but I hope not an inglorious defeat. In 1908 Judge Parker canvassed in my state for vice-president. Last year when I was a candidate for the national ticket, on which I was a candidate for the senate, in the midst of a heated con-

test, Judge Parker traveled from New York to Indianapolis to make a speech in my behalf.

"We have been during all these years, and are now, personal friends. The greatest desire of my heart is the hope of a Democratic victory. I attended a national convention in Baltimore in 1872, before I had cast my vote, and my young heart was filled with no more enthusiasm for success that year than my old heart is now. I believe that Judge Parker is as earnestly in favor, as earnestly desirous of Democratic success this year as I am.

"There are only a little over a thousand delegates in this convention; there are seven million Democrats between the oceans. There are millions of Democrats scattered from one end of this country to the other who at this hour are all looking with aching hearts upon the signs of discord that prevail here when there ought to be forerunners of victory in the shouts of this convention. Is there a man here who does not earnestly desire harmony to the end that there may be victory?

"I am going to appeal now and here for that kind of harmony which will change the sadness which at this hour exists in millions of Democratic homes into shouts of joy and gladness.

"My friend, Judge Parker, sits before me in this convention, he representing the national committee, I representing, not another faction, thank God, but representing perhaps another section, and we two men have it within our power to send these words of gladness flashing throughout the republic. If my friend will join with me now and here in the selec-

tion of a man satisfactory to us both; if he will stand in this presence with me and agree that that distinguished New Yorker who has brought more honor to the Empire state in the United States senate than it has had since the days of Frederick Kernan—James A. O’Gorman—this discord will cease in a moment and the great Democratic party will present a united front. Or if he will agree that that splendid representative from the state of Texas in that same body, Charles A. Culberson shall preside, or if he will agree upon that splendid parliamentarian, Henry D. Clayton of Alabama, or if he will agree upon that young Tennessean, whose name is known in every home where chivalry abides—Luke Lea—this matter will be settled in a moment. Or if he will agree upon the blue-eyed statesman from Ohio, Governor James E. Campbell; or if he will agree upon the reformer governor of Missouri, ex-Governor Folk; or if he will agree on my own colleague, the stalwart Democrat from Indiana, Benjamin F. Shively, all this discord will cease.

“Will some one for Judge Parker, will Judge Parker himself, meet me on this ground and aid in the solution of this problem, a solution of which means victory to the party and relief to the taxpayers of the country?

“My fellow Democrats, you will not promote harmony, you will not point the way to victory, by jeering or deriding the name of the man who led your fortunes in 1908. You may put him to the wheel, you may humiliate him here, but in so doing you will bring pain to the hearts of six million men in Amer-

ica who would gladly die for him. You may kill him, but you do not commit homicide when you kill him; you commit suicide.

"My friends, I have submitted a proposition to Judge Parker; I submit it to the man, the leader of the New York Democracy who holds that Democracy in the hollow of his hand. What response have I? (A pause.) If there is to be no response, then let the responsibility rest where it belongs. If Alton B. Parker will come here now and join me in this request for harmony, his will be the most honored of all the names amongst American Democrats.

"If there is to be no response, if the responsibility is to rest there, if this is to be a contest between the people and the powers, if it is to be a contest such as has been described, a contest which I pray God may be averted, then the cause to which I belong is so great a cause that I am not fit to be its leader. If my proposition for harmony is to be ignored, and this deplorable battle is to go on, there is only one man fit to lead the hosts of progress, and that is the man who has been at the forefront for sixteen years, the great American tribune, William Jennings Bryan. If you will have nothing else, if that must be the issue, then the leader must be worthy of the cause, and that leader must be William Jennings Bryan."

As Kern concluded, weak from a sleepless night and an enervating ailment, a friend took him by the arm and led him, "ashen hued and sick," as the press reports described his appearance, from the stage. He passed within arm's reach of Bryan, but

not a word was exchanged between the two, nor even a look. The move Kern made was as much of a surprise to Bryan as to Parker. It was not a prearranged affair. There was no sharp practice in it. But it was an earnest effort of a loyal Democrat to pour oil upon the troubled waters and prevent a battle between members of the same army. As he spoke the expression on Bryan's face clearly denoted his surprise. As he proceeded the expression of surprised anxiety gradually gave way to one of satisfaction and then to frank admiration. And when he was led from the stage, the Commoner in a dramatic manner accepted the commission which had been handed back to him. Had Bryan been a candidate originally the progressives of the country would not have had the warning of the reactionary plot. Had Kern remained silent and permitted the convention to vote between himself and Judge Parker without first submitting his series of compromise proposals, any of which should have been acceptable, the country might not have understood that there was a "rule or ruin" policy behind the men who presented Parker's name. Thus Kern's speech was quite as effective and important as that of Bryan.

Still it was not Senator Kern's purpose to embarrass Judge Parker, in whose personal devotion to the party he had the most perfect confidence. He did entertain the hope that the New York jurist would

meet him on the ground of a general conciliation. But when it became apparent that Parker was so situated that he could not respond to what must have been his natural impulse, and Kern made his appeal to Charles F. Murphy it was not so much with the thought that he might accept as with the intention to placing the responsibility and giving it "a local habitation and a name."

Among Kern's enemies there was a disposition to disseminate the idea that his action had compromised his personal popularity. Nothing could have been farther from the fact. The United Press on the following day properly gauged the effect when it said that "Kern's efforts to obtain harmony in his personal appeal to Parker to withdraw in the interest of the party has added to his popularity among the men who championed Parker's cause."

That night he saw Bryan for the first time after the late parting of the night before. Accompanied by Mrs. Kern he called at Bryan's rooms, where he found the Commoner in the center of his reception room surrounded by a crowd. Catching sight of the senator, Bryan broke through the crowd, his face wreathed in the Bryanic smile, and placing his arm affectionately about Kern's shoulders, he said delightedly:

"How did you ever come to think of it? That was the smartest thing you ever did."

Mr. Bryan publicly expressed his view of the performance in his newspaper article of the next morning:

"I think the reader, when he has fully digested this scheme (Kern's) will admit that it is about as good an illustration as has been seen in many a day of the manner in which tact and patriotism can be combined. After I had put Senator Kern in nomination against Parker, he took the platform and made a most forcible and eloquent plea for harmony in the convention. He called attention to the great issues involved and to the importance of presenting a united front. He then presented a list of names. . . . He called upon Parker, who sat just in front of him, to join him in withdrawing in favor of any one of these men in order that the convention might operate without discord. It was a dramatic moment. Such an opportunity seldom comes to a man. If Parker had accepted it it would have made him the hero of the convention. There was a stir in his neighborhood in a moment. The bosses flocked about him, and the convention looked on in breathless anxiety, but he did not withdraw. The opportunity passed unimproved. Senator Kern then appealed to Mr. Murphy to induce Judge Parker to withdraw, but Mr. Murphy was not in a compromising mood. This was the only thing that Senator Kern did, the good faith of which could be questioned. I am afraid that he had no great expectation of melting the stony heart of the Tammany boss. At any rate nothing came of the generous offer made by Mr. Kern except that it

shifted to the shoulders of Judge Parker and his supporters entire responsibility for any discord that might grow out of the contest."

Such is the true story of Kern's part in the great fight over the temporary chairmanship which did more to determine the progressive trend of the convention than everything else combined. The defeat of Bryan by a small margin aroused the rank and file of the party everywhere, and the wires to Baltimore were burdened with thousands of indignant telegrams of protest which made a profound impression upon the delegates and made quite impossible a repetition of such a fight, on such an issue, and with such a result.

II

After the country had been heard from there was a general disposition to give the progressives the right of way. Ollie James was made permanent chairman. And Senator Kern was made chairman of the committee on Resolutions.

When the committee on Resolutions met there was a desire to make Mr. Bryan its chairman, but he refused to serve in that capacity, desiring a freer hand to dealing with the convention than would be compatible with presiding over the deliberations of the committee. It is significant of Senator Kern's po-

sition in the party at that hour that with Bryan's declination the committee turned instantly to him. Partly because of his physical condition he at first declined, but was finally prevailed upon to accept. The United Press gave the true reason for his unanimous selection when it said that "Senator Kern was turned to at once as representing the progressive Democracy." It has always been customary for the committee to report after the nomination of a candidate for president, but immediately after its organization Mr. Bryan offered a resolution providing for a report on the platform before the nomination, and urging as a reason that no man should be nominated who did not square with the platform of the party. There was some dissent, but the resolution was passed, and the grind of work began at once and was incessant until completed. Without detracting from the importance of numerous members of the committee it is unquestionably true that the three men who exercised more influence perhaps than any others were Bryan, Senator O'Gorman and Senator Kern.

The platform agreed upon was one of the most progressive on which any candidate of any party ever ran and was in complete accord with the views of its chairman. Senator Kern read the resolutions to the convention and moved their adoption, and they were accepted without a contest of any character.

III

It is but proper that Senator Kern's relation to the presidential nomination should be disclosed, for his was the name that hovered over the convention constantly as the most probable compromise selection in the event of a hopeless deadlock. Because of the persistency of the "Kern talk" there has been from hostile quarters a tendency to question his loyalty to the candidacy of Governor Marshall; and during the prevalence of the talk *The New York World's* convention correspondent attempted to create the impression that the reactionary forces were working quietly for the nomination of the man who next to Bryan did more to force the convention into progressive channels than any man in it.

Senator Kern was as loyal as it was possible for man to be to the candidacy of the Indiana governor. He felt that Mr. Marshall had many elements of strength and looked upon him as a possible compromise between the two leading candidates in the event of a deadlock. Under these circumstances he frowned down any suggestion of his own name as calculated to weaken the prospects of Indiana's candidate by casting suspicion upon the sincerity of Indiana's support. I had personal evidence of this of the most positive character.

Several months before the convention, as the number of candidates multiplied and the possibility of

complications developed, a number of prominent politicians of a Pacific coast state wrote Senator Kern expressing a desire to launch his candidacy in that state, and to follow it immediately with the organization of "Kern for President" clubs. Assuming of course that a letter of such importance should be answered personally, I placed the letter in his hands. He was seated at his desk writing, and, as usual, smoking. He read it through carefully, a puzzled expression on his face, and then with a quizzical smile he handed it back.

"Aren't you going to answer it?" he was asked.

By this time he had resumed his writing.

"No—you acknowledge it," he said, still writing.

"What shall I say?"

"Say that I am not and will not be a candidate; that Indiana has a candidate and one that would give a good account of himself." That is the kind of letter, not even bearing Kern's signature, that went back to men of real political potentiality on the Pacific coast. After that many other people in different parts of the country outside Indiana wrote along the same line. These letters were always shown Kern, but with the exception of the first one not one of these was read through to the end, and in every case a letter similar in character to the one he ordered written in the first instance was sent. After a while he was clearly annoyed and disturbed by the suggestion these

letters conveyed. He simply ignored them, refused to seriously consider them, and evidently preferred not to see them.

In Indiana he had many importunate friends who insisted on making him a candidate against his will, and with these he dealt directly and always with the stern injunction that they do absolutely nothing that could possibly create the impression outside the state that there was any divided opinion in the state regarding the position the state should take on the presidency.

This dangling of a possible prize before him was carried to the convention on the day it met and was never permitted out of his range of vision up to the very day that Woodrow Wilson was nominated. Mr. Bryan tells me that one of the reasons given him by Kern for his opposition to being nominated for the temporary chairmanship was the fact that "he was embarrassed by the fact that he was being mentioned for the presidency by men in other delegations" and such prominence as might follow his nomination for the chairmanship might be falsely interpreted as a bid for the prize. On the second day of the convention the Associated Press carried the story that many astute politicians had reached the conclusion that under the two-thirds rule of Democratic conventions none of the avowed candidates could be nominated and that "some of the progressives" had commenced

to "test sentiment for Kern" and that the movement had "gained considerable momentum." On that day it was a commonplace comment about the hotel lobbies that the nominee "would be Wilson or Kern." And on that day men of much political importance in other states than Indiana began to interest themselves in "testing sentiment for Kern." The theory of these men was that when the "conservatives" found they could not nominate Clark or Harmon, and the "progressives" learned they could not nominate Wilson, both elements would find in Kern the satisfactory way out. And during that time Kern was importuned, and harassed, every hour of the day, dragged from the Resolutions committee to meet delegates anxious to vote for him, followed to his room at night. When the movement reached such proportions as to seem serious he took the position that as long as there was any possibility of the nomination of any of the avowed candidates, and as long as there was any chance of a compromise on Marshall his name should not under any circumstances appear in the balloting.

Long before the various candidates had been formally presented to the convention it required no extraordinary perspicacity on the part of veterans of national conventions to see that none of the avowed candidates could or would be nominated without prolonged balloting, and that there was a strong pos-

sibility of a hopeless deadlock. It did not require many ballots to justify the fear. In the resulting discussion of a compromise candidate or "dark horse" no name appeared with such frequency as that of Kern. Although he was constantly holding his friends in check this did not spare him from the suspicion of some and the open criticism of others. *The New York World* sounded a "note of warning" in a direct charge that "the reactionaries of the convention" were planning to throw the nomination to Senator Kern to prevent it from going to Wilson. The absurdity of the assumption that "reactionaries" would be interested in the nomination of the progressive leader of Indiana, who had been intimately identified with the reform measures of Mr. Bryan was not explained. The truth is that the men who were drawn to the Kern solution of a deadlock were found among members of both wings of the party. But the men who gave the movement impetus in the beginning and remained throughout the most faithful to it were progressives of the most militant stripe. Among them were men whose first choice were Wilson, Clark, Harmon and Marshall. The Underwood forces alone contributed no support to the movement. The most active and aggressive sponsor of the Kern compromise idea in the event the deadlock continued long enough to engender bitterness was Senator Luke Lea of Tennessee, whose first choice was Wilson.

The name of Kern appeared for the first time in the balloting on the third ballot when a delegate from Ohio went to him. After that there was scarcely a ballot in which he did not appear usually with one vote, frequently with two and sometimes with more. This was only significant in that it kept his name constantly before the convention as a way out.

On June 29th, three days before the nomination of Wilson, the Associated Press carried the story of the "dark horse" talk and said that "the names of Kern and Gaynor are most frequently mentioned;" and on the same day the United Press announced that Kern would not be a candidate until it had been clearly demonstrated that Wilson, Clark or Marshall could not be nominated, and that Indiana would then lead the way, to be followed by Illinois.

During these days no man did more to hold the Indiana delegation together for Marshall than Senator Kern. When on the 29th ballot Major G. V. Menzies of Indiana broke the solidarity of the delegation by voting for Kern no man resented it more than the senator, who was more embarrassed than flattered. To all Indianians who called upon him at his room with the suggestion that the "time has come to break from Marshall"—and there were many both on and off the delegation—he stubbornly refused to listen. The thought behind his uncompromising attitude was that once the delegation broke away from

its instructions there was no certainty that the majority would not ultimately find their way into the camp of ultra-conservatism.

Meanwhile he was given to understand that Illinois was ready at any moment Indiana led the way to transfer her vote to him, and he had good reasons for assuming that with his consent he could have the support of Ohio. In the event such a "drive" had been undertaken, assurances were given by men of potentiality that Michigan would follow and that far western states such as Colorado and Wyoming would fall in line. It was a tremendous temptation that was placed before him, and the very incongruity of the company urging it—progressives and bosses—would have made it seem to one less astute and less given to analysis as peculiarly auspicious. The feeling between the followers of the two leading candidates was hourly intensifying. The delegates were tired, and many financially embarrassed by the unexpected prolongation of the convention and were anxious to get away. If at such an hour and under such circumstances three such states as Indiana, Illinois and Ohio had bolted toward a dark horse, followed by Michigan and states from the far west and from the south, it might have resulted in a stampede and his nomination. It was Kern's personal opinion that it might result in throwing the convention into a turmoil of uncertainty out of which

would come the nomination of a reactionary; and such he believed to be the intent of some who were most insistent on his giving consent. He refused his consent.

At no time did Mr. Bryan give any encouragement to those who tried to interest him in Kern as a compromise candidate. This led to the silly story that the two former running mates had cooled toward one another because "Kern had not warmed up to Bryan's convention propositions." It was immediately after this story became current, at a time when there was much speculation as to whether the convention would be compelled to adjourn without making a nomination, that Mr. Bryan, in an interview suggesting possible compromise candidates, named Kern, Ollie James, Senator O'Gorman and Senator Culbertson as a list from which a selection might be made. The fact that Kern was first in the list was immediately seized upon as evidence of Bryan's partiality to his nomination, and that same day bets were offered that he would be nominated. Speaking of Kern, Mr. Bryan said:

"Senator Kern of Indiana already has received the support of nearly six million and a half of Democrats for the vice-presidency, and since that time he not only has been elected to the United States senate, but has distinguished himself among his associates by the prominent part he has taken. He is the leader

of the fight against Senator Lorimer. If there can be no agreement upon any of those now being balloted for it ought to be easy to compromise on a man like Senator Kern."

Then the drift toward Wilson began with the action of Bryan in withdrawing his vote from Clark because of the action of Tammany in throwing him its support and casting it for the New Jersey governor. It was the beginning of the end. On the day following the action of Bryan Senator Kern in a statement given to *The Indianapolis News* correspondent declared that the Indiana delegation was "first, last and all the time for Governor Marshall and had no second choice," but added that the second choice of the people of Indiana was probably Wilson. From this time on the probability of a "dark horse" dwindled and the convention hurried to the conclusion of its work with the nomination of the ticket of Wilson and Marshall.

No single man with the probable exception of Bryan was more instrumental in the general result of the Baltimore convention than John W. Kern.

His dramatic action in the chairmanship fight had done more than any other one thing could to throw the burden of responsibility for the contest upon the reactionaries; his work on the committee on Resolutions made for progressivism; and his refusal under great pressure to permit the use of his name in

the convention for the purpose of breaking away from the avowed candidates probably made the nomination of Wilson possible; and the support given the candidacy of Governor Marshall by the delegation of a doubtful state like Indiana no doubt made his selection for the vice-presidency logical and inevitable.

But the emotional conflicts through which he passed during those steaming days left him in a state of physical exhaustion from which he did not recover during the summer.

CHAPTER XIV

ELECTION TO THE LEADERSHIP OF THE SENATE

I

THE result of the election of 1912 was inevitable from the moment Mr. Roosevelt, in a pique because of his rejection by the Republican National Convention, organized a third party and accepted the presidential nomination upon its ticket. For the first time in many years the Democrats awoke the morning following the election to find themselves overwhelmingly triumphant, with Woodrow Wilson elected to the presidency, the Democratic majority in the house greatly increased, and the Republican majority in the senate swept away. But long before the rank and file of the party had permitted the bonfires to smoulder, the responsible leaders had sobered into a solemn realization of the gravity of the duty they would assume after the inauguration. The party had won by a minority vote, and the tenure of its power would depend upon the sincerity with which it met its pre-election obligations. The first two years of the Democratic administration would determine to a large extent the verdict of the public. The program of reformatory and constructive legislation promised in the platform and advocated by the leaders from Mr. Wilson down during the campaign was extensive; and it was to assume

power, after years of opposition, with the suspicion, carefully fostered by Republican speakers and papers for almost half a century, that it was utterly lacking in the qualities of constructive statesmanship. More disturbing to Democrats, however, it was to assume power with painful memories of the schisms which had wrecked it during its brief tenure between 1893 and 1895. The trouble then had developed from the fact that the Democratic organization in the senate was under the domination of men who were not in sympathy with the party platform. And the meager majority in the Democratic senate served to accentuate the fear from this quarter. From the house no fear was entertained. There Champ Clark presided over a great majority, fresh from contact with the people. But in the senate, with the Republicans voting together, the disaffection of three Democrats on any measure would leave the Democratic party in a minority. And the haunting fear of those possible three conjured up visions of Hill, Brice and Smith.

It is not an exaggeration to say that when Woodrow Wilson took the oath of office the fate of the Democratic party for at least a generation rested with the small majority in the senate.

The sixty-third congress ushered into this body eleven new Democratic senators, and among them were several men of unusual capacity. New Eng-

land, so recently hide-bound in its republicanism, sent Henry Hollis of New Hampshire, a young man of constructive ability and progressive principles. New Jersey contributed a second Democrat in William Hughes, a radical, and an ardent supporter of the new president. Little Delaware turned again to a distinguished Democratic family which had previously been represented in the senate and sent Willard Saulsbury, who was known to be in hearty sympathy with the Baltimore platform. From Kentucky appeared the eloquent Ollie James, the idol of the progressives from coast to coast, and from Illinois the equally eloquent and brilliant James Hamilton Lewis, in whom equal confidence was felt. From Colorado, Governor Shafroth, a veteran in the battles for reform; from Montana, the scholarly, clear-thinking and progressive Thomas J. Walsh, destined to become a pillar of strength to the cause he had always stood for; from Mississippi, James K. Vardaman, who had been nominated over his predecessor in the senate on the issue of progressivism; from Louisiana, Joseph E. Ransdell, concerning whom no fears were entertained; and from Kansas, William H. Thompson, uncompromisingly progressive.

Of the eleven new Democratic senators there was not one whose record and principles did not harmonize with the program the party had promised the people in the platform adopted at Baltimore. And



KERN ON HIS WAY TO THE CAPITOL

the Democrats who had entered but two years before—men such as Kern, O’Gorman, Lea, Williams, Ashurst, Pomerene, Reed, Myers and Johnson—were looked to with equal assurance. These twenty men, all fresh from the people and temperamentally progressive in their principles, together with some of the older senators in point of service, like Shively of Indiana and Stone of Missouri, were expected by the rank and file to hold the Democratic senate true to the Democratic platform, and to sustain the president in his program.

The short and last session of the sixty-second congress was unimportant in regard to legislation and senators, especially on the Democratic side, gave themselves up largely to personal and party politics. The Republicans could only sit back and wait. To Democrats, and especially they who had entered two years before, the future organization of the senate was the matter of prime importance. The newly elected men who were to be sworn in on March 4th came and went. Without exception they entered heartily into the views of the militantly progressive element that the logic of the situation called for a reorganization, with a new leader and new rules that would make legislation more responsive to the popular will. The congress had not been in session two days before the determination had been reached to challenge the old regime in the coming caucus by

presenting a candidate in opposition to the re-election of Senator Martin to the leadership. Even before the congress had convened some of the leaders in the new movement had been in communication with the newly elected senators and a day or two of canvassing among the older members convinced them that a new leader could and should be chosen.

In all of these preliminary maneuvers and conferences Senator Kern had no part, and he was so occupied until after the holiday recess with the trial of the Structural Iron Workers in the Federal Court at Indianapolis that he had no time for seriously considering the reorganization of the senate. He had been retained for the defense at a time when there was no reason for assuming that the trial would stretch out until December, but he was unable to make his closing argument until after the congressional recess.

The first indication he had that the reorganization movement had again been started and that his name was being considered in connection with the leadership came in the form of a telegram from one of the leaders to the effect that the former opposition to the old regime had "been strengthened by recruits," that these, with the new senators, would be "sufficient to elect," and asking for personal assurance of Kern's co-operation in the movement and of his willingness to accept the chairmanship of the com-

mittee on Committees. It was characteristic of Senator Kern that he wired the assurance of his cooperation in the movement and gave no encouragement to the proposal to elect him to the leadership. This telegram was sent just one week after the opening of the short session.

On Sunday evening, the latter part of February, about thirty of the fifty-one Democratic members of the senate met in conference at the home of Senator Luke Lea on Massachusetts avenue to determine upon their candidate for the leadership. At this meeting the qualifications of several men were considered, and one by one all were eliminated until only Senator Kern remained. No effort had been made to secure support for him, nor was he present at the conference. Thus without even expressing a desire for the position he was selected unanimously by the conferees after a process of elimination.

Never before in the history of the senate had any member been called to the leadership of the majority of that body after only two years of service in it. There were many reasons entering into the selection. The first qualification and the one of prime importance was that the leader should be known nationally as a progressive in complete harmony with the Baltimore platform and with the program of the incoming president. No member of the senate met these requirements more fully. His entire life politically

was in harmony with the program, and he had been chairman of the committee on Resolutions at the national convention.

In this qualification he did not stand alone. But there were other requirements. With such a meager majority, when the disaffection of three Democrats might wreck the party program and renew the disaster of the second Cleveland administration, nothing was more essential than the possession of infinite tact. This he was known to possess in a marked degree. And along with tact, ineffable patience.

During the two years succeeding the inauguration the program of the administration could have been hopelessly wrecked and the party discredited as a constructive force through the impetuosity of a hot-headed leader, or one unable to restrain his impatience or disgust. Senator Joseph W. Bailey, one of the most brilliant senators in half a century, once frankly admitted his unfitness for the leadership on that account. The conditions called for a conciliator, and here personal popularity was important. No one was more generally popular than Kern. And along with his tact, patience and popularity, his reputation for hard common sense and practicability operated to make his election more feasible than that of any one else. And his forty years of unselfish service to his party gave assurance that with him charged with responsibility there would be no successful surprise at-

tacks of the opposition because of any slackening of vigilance.

The announcement that the conference had been held and Senator Kern determined upon as the candidate of the "new deal" element practically ended the contest. It was not a secret that President Wilson would be entirely satisfied to risk his measures in the senate under his leadership. Five days after the thirty senators met at the home of Senator Lea the announcement was made that Senator Martin would not be a candidate for re-election. And when the caucus met, on March 5th, Senator Kern was unanimously elected.

In his first act as leader of the Democratic majority, the appointment of the committee on Committees, popularly known as the Steering committee, which is charged with the general formulation of the policies and program, he gave evidence of the conciliatory tone his leadership would assume. He might have packed the committee with radicals, but that would have been a challenge, and his course throughout was to be one of conciliation. Senator Martin was appointed along with Senator Clark of Arkansas to represent the conservatives, but with Chamberlain, Owen, O'Gorman, Hoke Smith, Lea and Thomas the committee was safely progressive. The revolutionary nature of the selections, however, appeared in the fact that of the nine members Kern,

O'Gorman and Lea had only been in the senate two years, Hoke Smith less than two years, and Thomas had just taken his seat—five of the nine being new figures. Thus from the first step the old, superannuated and unpopular rule of seniority which in the days of the Aldrich domination a few men were able to control legislation and to a large degree effect the usefulness of members through committee assignments, was made the object of attack. If the rule of "seniority" was not destroyed in 1913 it was so badly shattered that it could easily have been given the finishing stroke.

In the appointment of the committees the tact of Senator Kern and his co-workers on the committee was noted by the *Review of Reviews*. His first purpose was to make the personnel of the important committees safely progressive, and after that to come as nearly satisfying or reconciling everybody as possible. This presented a seemingly impossible puzzle. Men who under the old regime and methods would have stepped without a struggle into coveted places found themselves compelled to choose between important assignments instead of taking both. During the time the committee was at work Senator Kern was pulled and hauled and importuned by senators who threatened in some instances and sulked in others. At times the task of organizing the senate for business without creating animosities that would

seriously disturb the unity essential to Democratic achievement seemed hopeless. But Kern's tact, persuasion and hard common sense prevailed over all difficulties, and when the work was completed every senator with one exception expressed satisfaction with the arrangement. This one exception was Senator Bacon of Georgia, who wished to hold two coveted places—the chairmanship of the committee on Foreign Relations and the position of president pro tem. He was given the more important chairmanship, and Senator Clark of Arkansas, an ultra conservative, was made president pro tem. However, such was the tact and kindliness of Senator Kern, who greatly admired the exceptional ability of the venerable Georgian that the latter soon forgot his disappointment.

In making the committee assignments the rule of seniority was set aside without compunction when it seemed necessary to making the senate progressive. There was no disposition to punish the ultra-conservatives or to humiliate them in any way. Because he was, at the time, looked upon as holding high protective views, there was a clamor among the radical tariff reformers against permitting Senator Simmonds, the ranking Democratic member of the Finance committee, to serve as its chairman. He was appointed chairman, but with Stone of Missouri, Williams of Mississippi, Johnson of Maine, Shively

of Indiana, Gore of Oklahoma, Smith of Georgia, Thomas of Colorado, James of Kentucky and Hughes of New Jersey—all progressives and low-tariff men—upon the committee with him.

A new committee on Banking and Currency was created with Senator Owens as chairman and composed of men holding progressive views on currency legislation. This committee, instantly recognized as significant in view of the president's campaign advocacy of currency reform, was to stand sponsor for the Federal Reserve system, conceded to be the greatest piece of constructive legislation in half a century.

Another new committee was created to handle Woman's Suffrage legislation, and the liberal attitude of the new senate leaders toward the woman's movement was shown in the appointment of Senator Thomas, an ardent advocate of suffrage to the chairmanship, and the friendly attitude of the majority of the senators composing it. This within itself indicated a radical change in the spirit of the senate, which had always before been prone to make short shift of bills and resolutions dealing with the suffrage question.

The election of Senator Kern as caucus chairman was the first sign that a new senate had been created; the announcement of the committee assignments was second, and this attracted wide attention and much discussion in the press. *The Literary Digest* found

that "the reorganization of the senate has been accomplished in a way paralleling the overturn of Canonism in the house by the practical abolition of the seniority rule in making up committees." *The Brooklyn Eagle*, *The Washington Times* and *The Washington Herald* made the point that the senate had really become the more radical of the two branches of the congress. *The Springfield Republican* and *The Providence Journal* commended "the throwing off of the customary control of a perpetual succession based on seniority of service." And Senator Kern in giving to the press his own interpretation of the action of the steering committee said it was the intention to make the senate "Democratic not only in name but in practical results."

That, however, did not conclude the Democracization of the senate, for new rules were adopted which deprived chairmen of the arbitrary control over legislation which had been their portion during the long period of Aldrich-Hale rule. These rules provided that a majority of the committee might call the committee together at any time for the consideration of any pending bill; that a majority of the majority members might name sub-committees to consider pending measures and report to the full committee; and that a majority of the majority members might name members to confer with the house conferees on any bill on which the two houses might

disagree. Strangely enough the adoption of these significant new rules which struck at the root of the evils of the old system failed to make much of an impression upon the press, which for the most part, passed them by without comment. *The Review of Reviews*, however, caught the significance and said that "even more significant than the personal changes which bring a new set of men into control of a body so recently managed by the extreme conservatives of both parties are the changes in the rules."

The system thus displaced had long been recognized among progressives familiar with its mode of operation as sinister in the extreme. The chairman of a committee could indefinitely postpone action on any bill which did not appeal to him by refusing to call the committee together for its consideration.

If he did finally call the committee he had the autocratic power to name a sub-committee for its consideration packed with its enemies, who could be depended upon to bring in an unfavorable report. More sinister still, perhaps, was his power to select the conferees in the case of a disagreement between the two houses because the measure as passed by the senate could be radically altered in conference and completely changed from the form in which it left the senate and could only be rejected or accepted without amendment on its resubmission to the senate.

The new senate really deprived the chairman of a

committee of any real power in excess of that of any of his colleagues on the committee and reduced him to the harmless status of a presiding officer.

Thus the election of Senator Kern to the leadership of the majority at the beginning of the first Wilson administration, with all that followed in keeping with the meaning of that selection, marked a revolutionary change in the United States senate, broke down the fetish of the seniority rule, smashed superannuated precedents and traditions, made difficult if not impossible the domination of the body by a small coterie of men entrenched in powerful chairmanships, and did more toward the democratization of the senate than had been done in half a century. And, what was more remarkable, it was all done with such tact and fairness that within a week the Democratic majority, small as it was, presented to the opposition a solid front prepared to make good the progressive pledges of the Baltimore platform and the pre-election speeches of President Wilson. How faithfully and effectively and unselfishly Senator Kern did his work during the four years of his leadership and especially during the first two years which were crowded as never before in history with vitally important constructive legislation will be discussed later in a single chapter.

CHAPTER XV

KERN'S FIGHT AGAINST FEUDALISM IN WEST VIRGINIA

SCARCELY had Senator Kern assumed the leadership of the senate until he was engaged in the most notable and bitter battle of his career against the feudalism of the coal barons of West Virginia. His resolution for a senatorial investigation into the conditions in the Paint Creek district where anarchy was apparently in full flower, with the constitutional guaranties of citizens brushed aside, and men being tried for their lives by drumhead courtmartials while the civil courts were open, was the signal for the marshaling of an army of opposition embracing railroads, coal operators, bankers, all the powerful moneyed interests. Never before in history, in a distinct fight between the working classes on the one side and the great interests on the other, had the masses won in the senate. Never before had a senator just assuming leadership so audaciously challenged defeat. And he won.

But to appreciate the significance of his triumph it is necessary to record something of the ineffable inhumanity of the industrial feudalism which had been established through the employment of armies of gunmen, the subsidization of the press, the prosti-

tution of the courts, the cringing sycophancy of politicians, and the organization of bi-partisan political machines to meet the demands of greed.

It must be a startling story—a story of greed fattening upon the hunger of children, of the trampling of inalienable rights, of the kicking to death of unborn babes by brutes untouched by the law, of the murder of women, and the shooting of unarmed men in the night—a story of tyranny and brutality as infamous and cruel as was ever born of the dynasty of the Romanoffs.

And this story, which shocked the most conservative members of the senate, and shamed a republic, must be told primarily because the American people have been told too little of it. And it must be told in the story of Kern as an illumination of his political character and as an explanation of the bitter hostility with which his course was viewed by such a large portion of "our best people" in his own state.

The story of the "Kern Resolution" is the story of Kern. But behind the resolution itself is a story that must be told if we are to understand the full significance of it.

I

Coal has been the crown and the crime of West Virginia. The second state in the union in its deposits of coal, the industrial, social and political life of the commonwealth revolves about the mine. Un-

til a few years ago there was no organization among the miners. They were industrial slaves. The living conditions under which they worked were horrible beyond description. They had no rights that the coal barons were bound to respect, and none that the civil authorities apparently cared to enforce. In the Paint Creek and Cabin Creek sections in the county of the state capital these conditions existed for years. They were robbed of the full fruit of their labors by a system which denied them the privilege of having a representative in the weighing of the coal they produced. Compelled to live in the cottages of the companies, they were charged unreasonable rentals for impossible huts. Forced to purchase their food from the company stores, they were made to pay on an average of thirty per cent more for the food necessities of life than were being charged at independent stores.

From their meager pay the companies deducted every month \$6 for rent, \$1 for coal, \$1 for a physician, 20 cents as a hospital fund, 50 cents for the blacksmith, 80 cents per gallon for miners' oil, and for various other things approximating an average of \$11.05 each month. By the time the miner with a family had paid all this and for the bare necessities of life he was usually in debt to the company. Thus a form of peonage—peonage in reality if not in the legal sense—was established. These men were slaves.

It was the game of the companies to keep them slaves. They thought it paid better than to have free men. And to this end these companies perfected a remarkable organization to prevent the unionization of the miners. This organization was known as "mine guards," and the miners were compelled to pay the bills. These guards were furnished by the Baldwin-Felts agency and were composed largely of the scourgings of the slums of cities. These gun-men had no legal status but the miners were forced to recognize their authority—and their authority was a gun.

The pretext for the use of these armed thugs was the protection of the mines, the purpose was to prevent the organizers of the United Mine Workers from entering the field, to prohibit newspaper men from visiting the camps and exposing the infamy, to forbid the miners from exercising their constitutional right to meet in peaceful assembly for the discussion of their wrongs. The purpose was to Siberianize West Virginia. And the purpose was met.

They were there to terrorize over the miners, to panhandle newspaper men and beat up the organizers of the United Mine Workers—and they did their work with a zest.

These guards met the trains regularly and every organizer of the United Mine Workers understood that if he left the train he did so at the peril of his life. This condition existed for years within a few

miles of the state capital, within little more than two hundred miles of the capital of the republic and was known to exist. The riff-raff of the scums of the cities, reeking with rotten whisky and armed with guns, held high carnival, panhandling organizers, terrorizing miners, insulting women and children, and they did it with impunity.

And the reason was that popular government had broken down and had been displaced by the feudalism of the coal barons and their allies. To control the labor market, to dictate the laws, to interpret the laws, the mine owners entered politics and became the bosses. Such, in a general way, was the condition in the mine sections of West Virginia when the supreme fight came in 1912.

II

An hour's ride from Charlestown, in the Kanawa mountain, are two ragged gulches eight miles apart and divided by a sharp ridge. One is the Cabin Creek mining settlement, and the other the Paint Creek settlement. A decade or more before the trouble of 1912 the miners along Cabin Creek had, after much travail, been organized, but an ill-advised strike had wrought their ruin and resulted in the restoration of the old non-union conditions aggravated now by the hate born of the victory over them. This settlement had come to be known as "Russia."

The mine owners had here established an ideal feudalism. They owned everything in sight but the country road, which was the bed of a creek. Thus it was practically impossible to visit Cabin Creek without trespassing on company ground and being roughly handled by the whisky-crazed gun-men called "guards." A miner or his family could only call at the shack of a neighbor by suffrance, since he could not reach the neighbor's house without trespassing on company property. Here the gun-men were supreme. The men were slaves in all but name. They submitted to being robbed of the fruit of their labor, to extortion in the matter of rental and in the purchase of food in the company stores, and organizers of the miners understood that he who ventured into Cabin Creek would probably be carried out upon a stretcher.

The miners of Paint Creek had been organized, but in the spring of 1912 the coal barons determined to extend the feudalism of Cabin Creek across the ridge. The opportunity came when the time for the signing of a new contract was reached. In the conference between the miners and the operators at Charlestown the miners submitted many demands, all of a kind conceded in other mining states such as Indiana and Illinois, but after more than a week the operators refused to sign. In the interest of industrial peace the miners thereupon agreed to continue

under the old contract with the old prices and conditions, provided the operators would agree to the full recognition of the union. This, too, was refused, and a strike was ordered. Within ten days the miners were asked to meet with representatives of the coal companies in an effort to adjust the difference, and this, agreed to by the miners, resulted in a further compromise and the signing of a contract by the operators and the miners. The operators almost immediately broke faith, the strike was renewed and the fight was on. The issue was clear from the beginning—whether or not the conditions in Cabin Creek domineered over by drunken gun-men, should be established in Paint Creek.

The representatives of feudalism acted quickly. Almost immediately Paint Creek was invaded by the gun-men, headed by the infamous and murderous Ernest Gaujot, the "King Guard," a man with a criminal record, with machine guns, plenty of ammunition and searchlights. Thugs, gun-men and thieves were hastily scoured from the scums of the cities, supplied with whisky and guns and turned loose upon the miners and their families. The program was to terrorize the miners into surrender. In the darkness of the night the gun-men fired the Gatling guns for practice. They swaggered in their drunken insolence into the homes of the unarmed miners, leer-

ingly speculated aloud on what a good target the master of the house would make, turned everything upside down, kicked and cuffed the children, ordered drink and food, and let loose the flood gates of profanity and vulgarity in the presence of the women and babes. Nothing so nearly resembling anarchy has ever been seen on American soil. These drunken brutes invaded the home of a miner by the name of Frank Russe, and finding no one at home but the wife, who was about to become a mother, they slapped her face and drove her from the house. But the crime of that time that cries to heaven and curses the civilization that permitted the criminal to live, was committed at the home of Tony Sevilla, who was in Ohio at the time in search of work. The unspeakable Gaujot and his gang searched the house, and after they had gone a neighboring woman, knowing that Mrs. Sevilla was in a delicate condition, hurried over to find her on her knees, an expression of agony upon her face, **making the sign of the cross.** Pointing to her side, where one of the gun-men protectors of feudalism had kicked her, she moaned in broken English: "I don't hear my baby calling me now."

They had murdered the unborn babe and mother and were permitted to go on with their murderous work. No one was arrested for that! No one was molested for that! That was two hundred miles from

the capital of the republic, in the county of the capital of an American state, and in the twentieth century of Christian civilization.

And the barons were satisfied. They wanted quick action. The guards were instructed to throw the miners out of their homes without mercy. Women about to become mothers, the sick, the babes, were driven shelterless into the fields. The miners established a tented camp at Holly Grove at the mouth of the creek and another at Mossey, near its headwaters. At Mucklow, near by, the guards—Gaujot's men—were established. And when the miners, driven to desperation by the prodding of the guards, twice attacked the Mucklow camp, the papers of Charlestown contained lurid accounts of the brutal and bloodthirsty attacks of the anarchistic miners upon the representatives of law and order personified by Gaujot. There was much sympathy for the operators. It looked as though the miners were whipped—that America would be driven out of Paint Creek and Russia established.

III

On July 6 an old woman alighted from the train in Charlestown. She had now reached her eighty-third year and during the greater part of her life she had been the heart and center of the great industrial battles of the country. The country had come to know her as "the angel of the miners," and her boys, as she

called the miners, as "Mother" Jones. For years she had gone where men had not dared to venture. She had faced guns, thwarted conspiracies, partaken of bull-pen fare, but, as this gray-haired old woman with a grandmotherly face, she was planning for the greatest battle of her life. She knew the West Virginia coal fields and the conditions. She had been there before. And she realized that the representatives of feudalism were preparing to exterminate unionism and establish gun-men rule in Paint Creek as across the ridge. She was a strategist. She had no faith in defensive warfare. She proposed to force the fighting, to sustain unionism in Paint Creek and carry it across the ridge.

Having decided upon this counter movement she quietly arranged for an initial demonstration that would awaken the public to what was going on. One day the city of Charlestown was startled to see an old woman leading three thousand miners through the streets to the state house, and bearing banners to the effect that the gun-men had to go. The men were sober and orderly—she had seen to that. Governor Glasscock saw her. She served notice upon him. Calling attention to the inscription in front of the state house, "Mountaineers are Always Free," she told the governor that the boast would be made to stand the test of reality. And she gave the governor twenty-four hours to get rid of the gun-men. And

if the state failed to rid the mining region of these guards she told him boldly that the miners would. The gun-men did not go in twenty-four hours. It was now evident that the state, organized for the protection of society, would not intervene and rid the commonwealth of these ruffian mercenaries. The miners determined that they would no longer be terrorized, beaten, robbed, their wives and daughters should no longer be insulted and cuffed about, their constitutional rights no longer disregarded. And while they had no thought in the beginning of civil war they now proceeded to arm themselves—to do for themselves what the state had refused to do for them. In less than three weeks after “Mother” Jones had served notice on the governor, the miners, infuriated at the prodding of the gun-men, entrenched at Mucklow, moved upon the stronghold of the enemy with such fury that the pitched battle resulting left the guards in danger of annihilation. The state now became alarmed. This was serious. And the governor hurried the state militia to the scene in special trains. The militia now proceeded to disarm both sides.

During the first week in August, “Mother” Jones, taking her life in her hands, invaded Cabin Creek, and in the early afternoon called a meeting of the miners at Eskdale.

And that afternoon she organized them into the

union and swore them to the oath of the United Mine Workers. The men were instantly discharged and told to "go to 'Mother' Jones for work." A week later another meeting was held at Eskdale and when eighty Baldwins attempted to prevent the meeting they were put to flight by five hundred armed miners. This was followed by evictions, and West Virginia was in a state of civil war.

To the gun-men and the coal barons "Mother" Jones became a pet abomination. The brutal treatment accorded her by the guards has seldom been equaled in the case of a woman. Meanwhile martial law had been declared.

Realizing the necessity of informing and arousing the country on the conditions, "Mother" Jones left for a speaking tour which included the city of Washington. It was unnecessary. The operators had planned something much better for that purpose.

IV

The miners' tented camp at Holly Grove had become an eyesore to the representatives of feudalism. They determined to wipe it out and thus terrorize the strikers into submission. Their plan was diabolical, medieval in its brutality. An armored train was equipped at Huntington, W. Va., for the purpose. On the night of February 7, 1913, the special crew went aboard.

The miners were peacefully in their tents or houses that night, many asleep, when between ten and eleven o'clock the armored train moved slowly at a speed of about seven miles an hour through Holly Grove pouring a fusillade of bullets upon the unsuspecting and unprepared inhabitants. Cesco Estep, who was sitting with his family by the fire when the shooting began, called upon his family to take refuge in the cellar and led the way. He fell dead a few feet from the cellar door. His wife, who was about to become a mother, fled for her life. One woman was shot in the feet. About fifteen shots passed through the Estep house, which sheltered women and children that night. The woman was shot in her own home. Bullets passed through many houses and tents, setting fire to a store, and the marvel was that many were not murdered. The miners, as quickly as they could recover from their surprise, in a few instances returned the fire, and this was the occasion for much indignation in the capital, where it was understood that the miners had brutally attacked an armored train. The train passed on and was dismounted in the C. & O. shops in Richmond. This incident was something novel in the history of industrial warfare in America.

V

The following evening "Mother" Jones went to Hansford to see what arrangements had been made

for the burial of the murdered man and what could be done for the widow and orphans. The miners there, expecting a visit from the train later, had taken precautions to prepare. There was some excitement. Later that evening "Mother" Jones went to Charlestown. Meanwhile troops had been sent into the mining section, martial law had been declared, and miners were being arrested in numbers. Hearing of the intense excitement at a mining camp known as Bloomer, where the majority of the miners were Italians, "Mother" Jones called a meeting there with the view to preventing them from taking extreme measures. The excitement was so intense that she adjourned the meeting until the next morning at Long Acre, a few miles distant. Having impressed them with the thought that lawlessness would be a play into the hands of the enemy, she had them select a committee to call upon the governor with a request for the release of their fellow workers. She paid their fares to Charlestown. When she reached Charlestown she was taken into custody by local officers, taken to a justice of the peace court where a warrant was sworn out against her, conveyed across the river to a C. & O. train, carried twenty-two miles into the martial law zone, and turned over to the military authorities. There this venerable woman was placed in a room in the house of a poor miner where the only furniture in the room was a small lounge, on

which she slept, a small table and two rocking chairs, with no wash bowl. For eight weeks, day and night, two or three militiamen marched around the house keeping guard. No one was permitted to see her. Newspaper men were especially taboo.

And she was to be tried before a drumhead court-martial, with all the civil courts open, on a charge of murder! Others were included in the charge. The miners who had fled from Holly Grove to Hansford after the attack, had set out to capture a machine gun near Mucklow, and in the pitched battle the bookkeeper of a coal company was killed. There was no concern over the murder of Estep. The killing of the bookkeeper was followed by the arrest of more than a hundred miners—and "Mother" Jones.

VI

We now enter upon the most startling feature of the feudalism of West Virginia in the coal districts. It was soon made evident to the thoughtful that the system was in position to enforce darkness. With pitched battles, armored trains, murdered women, there was little or nothing about it in the press of the country. But when the story that a woman of the celebrity of "Mother" Jones, loved by millions among the toilers, was to be tried for her life before a drumhead courtmartial was told in less than a dozen lines, the system made a fatal blunder. That little light

illuminated the darkness. Senator Kern, reading these few lines in the *Washington Post*, expressed his amazement to those in his office that so little information was furnished. Far out in San Francisco, Fremont Older, the fighting editor of *The Bulletin*, who had been one of the leaders in the movement that destroyed the Schmitz boodle brigade and sent Abe Reuf to the penitentiary, talked it over with his clever wife and decided that she should go at once to West Virginia and ascertain by personal observation the occasion for the silence. The story of Mrs. Older was soon told in *Collier's Weekly*—a brief, gripping, startling story of an unthinkable situation for America.

The darkness gave such light that magazines took steps to secure articles concerning an unparalleled condition. Harold E. West's startling story of "Civil War in West Virginia" appeared in *The Survey* in early April. An even more amazing story from M. Michelson, under the satiric title, "Sweet Land of Liberty," appeared in the May number of *Everybody's Magazine*. *Collier's Weekly* gave its readers Mrs. Older's story about the middle of April. The country began to wonder—and to wait.

Meanwhile the most dangerous and startling evil in the situation—the power of the governor to trample upon the constitutional rights of the people of his state, to ignore the civil courts when they were in

session, and try men and women for their lives by a military tribunal—was vigorously contested in the Supreme Court of Appeals in the now famous habeas corpus cases of Mays and Nance and a little later in the cases of Jones, Boswell, Batley and Paulson. The constitution of West Virginia was explicit and emphatic on the point, but the court decided that the constitutional rights of citizens could be brushed aside. A more remarkable decision has probably never been handed down by any American tribunal. How remarkable the world was permitted to understand through the vigorous and indignant dissenting opinion of Judge Ira E. Robinson.

And yet for three months this military tribunal sat at Pratt on Paint Creek sending men to the penitentiary and jail and fixing penalties in many cases in excess of those fixed by the statute with the approval of the then Governor Glasscock.

It was long after her release that "Mother" Jones found that she had been sentenced to the penitentiary for five years and that several of the men had been sentenced to twenty years. She went back to her prison.

VII

Senator Kern introduced his famous Paint Creek resolution in the senate, on the request of representatives of the United Mine Workers, on April 12, 1913.

He did not at that time have the slightest idea of the tremendous importance of his act. The disclosures made to him were so unusual as to convince him that light could do no harm, and his confidence in the judgment of William B. Wilson, then secretary of labor in the cabinet of the president, who had introduced a similar resolution in the House, and of Senator Borah, who had presented such a resolution in the Senate in the preceding session, was such that he did not hesitate in acceding to the request. But he was not to be left long in the dark as to the significance attached to his resolution by many of the most powerful financial elements in the country. The original resolutions directed that an investigation should be instituted to ascertain whether or not a system of peonage was maintained in the coal fields of West Virginia; whether or not access to the post-offices in these coal fields was ever denied miners, and if so, by whom; whether or not the immigration laws of the country were being violated; in the event that any such conditions existed, what could be done to remedy them, whether the commissioner of labor or any other government official could be of service in adjusting the strike, and whether or not parties were being convicted and punished in violation of the laws of the United States. This resolution was offered on April 12. The following six weeks were

to astonish the senator in the disclosures of the resources and ramifications of the representatives of feudalism in West Virginia.

Taking its natural course the resolution went first to the committee of the senate on contingent expenses, and here the system first became active. One of the operators of West Virginia, a former member of the senate, wired former colleagues protesting any investigation. It was sixteen days before the committee submitted back a favorable report with certain amendments, and while there was nothing on the surface during these sixteen days to indicate that a bitter battle was being fought, it was impressed upon Senator Kern in many ways. It was not until May 9, or twenty-seven days after the resolution was presented, that the resolution really got before the senate in shape for discussion. Meanwhile the author of the resolution was learning things concerning conditions in the Paint Creek and Cabin Creek region. Letters and telegrams by the hundreds poured in upon him from people in all walks of life familiar with those conditions, miners, merchants, lawyers, school teachers, telegraph operators, former legislators, and the striking feature of these letters was the request that their names be protected from publicity. The merchant frankly feared a boycott, the lawyer social ostracism, the teacher a discharge from his position, the operator the blacklist of the railroad, the former

officials political destruction, but all united in one common story—a story of such unthinkable lawlessness and cruelty as to be almost past belief. Newspaper men who had attempted to enter the field to ascertain the real conditions and had been met at the train by the armed guards and sent on about their business, added their story. Mrs. Fremont Older, who had been both a witness and for a time a victim of the system, went to Washington and told him her story—a story calculated to outrage any man of the legal profession who entertained the slightest regard for the courts or the constitution. Representatives of the United Mine Workers armed him with plenty of ammunition from their arsenal. But even before the miners' side of the story had been impressed upon him Senator Kern was convinced of the imperative necessity for the investigation by the nature and persistence of the opposition. Men with no apparent interests in the coal fields not citizens of West Virginia began to wire and phone their importunities to drop the proposed investigation. Many railroad officials seemed morbidly concerned. The highest financial circles of New York City brought every possible influence to bear. Being a man of more than ordinary perspicacity the grave concern of these men opened to the senator a broad vista. The climax of this campaign to influence him to drop the fight came when an old and valued friend in New York

City connected with one of the greatest financial groups of that city called him on the phone in an effort to dissuade him.

"I will see you in hell first," was the reply as Kern slammed up the receiver.

As usual with men of this type their vaulting ambition overleaped itself. Meanwhile Governor Haywood of West Virginia, elected to succeed Glasscock on the pledge to eliminate the armed thugs called guards, gave an interview to the press which was sent throughout the country attacking Kern in the most bitter language.

Thus at a time when the public, kept in the dark as to the horrible conditions in West Virginia through the deliberate suppression of the most sensational news, Kern was being pilloried throughout the country as a demagogic sensationalist, in league with lawlessness, and not above stooping to ordinary falsehoods. The conservative element, prone to suspect all strikers, and exonerate all against whom strikes are aimed, was being prejudiced against him. The masses of the people were not aroused because they did not have the facts. The most powerful influences were in league against him. And the whisper went about the corridors of the capital that the resolution was a deadly blow at the rights of the states, and was only the beginning of more dangerous encroachments upon state sovereignty. Mr. Kern

had only entered upon his work as senate leader and his personal, and especially his political enemies, knowing little and caring less about the merits of the resolution, and convinced that it could never pass the senate, were already gloating over his humiliation, and preparing to herald it as an early repudiation of his leadership by his party.

Never before in the history of the United States senate in a straight contest between the lowly or the workers and the great financial interests had the workers won—and the politicians were judging the future by the past.

But on the very day that Haywood issued his scurrilous statement an historic telegram was placed in the hands of Kern which did much to turn the tide. This telegram has its own story.

VIII

One day in early May, Mother Jones, enjoying life in "the pleasant boarding house in a private family on the banks of the Kanawha river," was startled by some one throwing into the open window of the room where "she was detained but in no sense confined" beyond the fact that armed sentinels saw to it that she did not leave the room, a copy of *The Cincinnati Post*. Opening the paper she found under glaring headlines the story of the battle in the senate of which she had been in utter ignorance. This article told of

the bitter fight being made against the Kern resolution, of the long distance call to Kern from New York City, and of the senator's indignant response, "I'll see you in hell first." And she realized that if the battle in the senate was lost the cause of the miners in West Virginia would be set back for a generation. She did not know Kern—had never met him. The thought came to her that she should write him of the real conditions. Then she read *The Post* article again in which the comment was made that the New York financiers "did not write, did not telegraph—they took the quickest way to reach him." A letter—it might never reach him, and everything might be lost in the meanwhile. She decided to send a telegram. And she wrote:

HANSFORD, WEST VIRGINIA, May 4.

Senator Kern, care Senate Chamber, Washington,
D. C.:

From out of the military bastile, where I have been forced to pass my eighty-first milestone of life, I plead with you for the honor of this nation. I send you groans and tears of men, women and children as I have heard them in this state, and beg you to force that investigation. Children yet unborn will rise and bless you.

MOTHER JONES.

Reading it critically she concluded that the words "military bastile" might smack of pose and she substituted "military prison walls."

The next problem was how to get the telegram to Washington. The poor people at whose home she was "detained" were friendly to her and her cause, although this was not known to the authorities. Early during her incarceration she had thought it possible that she might be in need of communication with the outside world and with the aid of the head of the house a part of the flooring had been cut, and an empty bottle was suspended by a wire into the cellar. It was the understanding that at the sound of a bell with which she had been furnished the man should go to the cellar, where he would find a communication in the bottle. Into this bottle she stuffed the telegram with a note of instructions to deliver it to an operator who was friendly some distance away with the message from her to "get it to Washington if it is the last thing you do in life." Some time later the messenger returned with the message from the operator—"Tell Mother Jones that telegram will be in Washington before you get back." And it was.

That telegram was instantly given to the press and flashed over the country. It created consternation in Charlestown. It threw open the prison doors to the venerable woman. One of the military men at Pratt was instructed from the state house by phone to conduct Mother Jones to the capital by the first train. Reaching Charlestown she was taken before the governor and treated with exceptional courtesy.

She was permitted to spend the night in the hotel in Charlestown where she was accustomed to stopping. Immediately afterward at a miners' convention in the city she was instructed by John P. White, president of the United Mine Workers, to go to Washington and give all possible aid to Kern in his fight.

And thus she went, without having been formally set at liberty and without knowing what the sentence of the military tribunal had been.

Reaching Washington she went into conference immediately with Kern, and the following day found her, loaded down with letters to senators from Secretary of Labor Wilson, trudging the interminable marble corridors of the senate office building, informing senators individually and at length of the conditions in West Virginia. At times her eighty-odd years bore heavily upon her and worn and weary she would return to Kern's office, sink exhausted into a chair for a rest of a few minutes—then on her way again.

The most impressive and effective lobbyist that ever trod the stones of the capital was this old woman.

IX

Senator Kern in opening the debate on the "Kern resolution" on May 9th asked that "this investigation proceed that the full light may be let in on this foul

spot and that all the facts bearing on these questions may be brought out to the end that wrongs, if they exist, may be righted, and that any men who are unjustly accused may be vindicated."

Five days went by before the resolution was again considered by the senate. In the meanwhile the country was awakening to the significance of the fight and Kern was able to present scores of letters, telegrams, petitions from miners of West Virginia and elsewhere, and a striking telegram from the victims of militarism then held in the jail at Clarksburg, West Virginia, "stripped of constitutional rights, denied a jury trial, forced to face a drumhead court martial, deprived of their citizenship, reduced to subjects and thrown into jail." This resulted in the renewal of the discussion and Senator Kern said:

"I had a telegram the other day from a leader of Socialism denunciatory of these conditions. When I showed it to a senator here he deprecated the idea that there was such relationship between me and that man that he would feel free to telegraph me. Men are being imprisoned in West Virginia today because they are Socialists; newspapers are being suppressed because they teach the doctrines of Socialism; men are discharged from mines, according to the testimony taken before the military commission, because they vote the Socialist ticket and because they belong to a labor union; and while the doctrine of judicial recall gains favor with the people whose rights are

stricken down by unjust decisions, so do the forces of Socialism multiply in such breeding grounds as those in parts of West Virginia, with special privilege on one hand eating out the substance of the people, and with judges setting aside constitutional safeguards to the end that the people may be oppressed and denied rights for which their fathers fought and died.

"Socialism has grown in this country until more than a million men cast their votes for the Socialist ticket at the last election. The fire of Socialism is fed by such fuel as this West Virginia decision, and the lawless action there of men charged with the execution of the laws. Socialism grows and will grow in exact proportion as wrongdoing is countenanced and upheld, not only by the strong legislative forces of the country, but especially when they are backed up by the judicial arm of the government.

"Senators, these million men who voted the Socialist ticket last November are the men who ought to be full of that kind of patriotism in time of war that would impel them to go out and walk on the uttermost ridge of battle, to peril their lives in defense of their country and their country's flag because they love their country, because they venerate the laws of the land.

"This great body of a million or more men whose loyalty you question, and the millions more who make up the organized labor forces of the land, and who are not yet Socialists, will love their country and its flag if you will permit them, and not drive them away by making them constantly realize that

they can not expect fair treatment either in the administration of the law by executive officers or in the construction and enforcement of law by the courts.

"If the time comes—we all pray it may be averted—when the integrity of this nation is assailed, either from within or from without—if the time comes when the American Republic is brought face to face with the marching armies of the nations beyond the sea, we will need those million of men, for they are men that toil with their hands. They have strong arms. They are the same type of men as that splendid Army of the Republic fifty years ago who won for themselves imperishable renown by their sacrifices in behalf of the Union and the flag.

"Do you make good citizens of men by denying them their rights? Do you command the respect and the patriotism of the toilers of this land by turning them away when they come into this great tribunal and simply ask that the light be turned on, to the end that the people may know as to whether or not God reigns and the Constitution still lives, and whether they and their kind are to be despoiled of their heritage of liberty?

"For a man to be a loyal, good citizen of this country he must love his country. Can you ask him to love his country and be true to her traditions and institutions when in his heart of hearts he knows that in this land and beneath its flag there is a law for him which is not enforced against others, and that he can no longer appeal to the courts for the enforcement of his constitutional rights?"

Strong support was given the resolution by Hollis of New Hampshire, Borah, Kenyon, Martine, but it was left to Root to brush aside the technicalities and precedents and insist that the vital thing involved was the preservation of American institutions. The fight against the resolution finally resolved itself into the proposition proposed and championed by Bacon to strike out the clause providing for an investigation into whether or not "citizens of the United States have been arrested, tried and convicted contrary to or in violation of the constitution and the laws of the United States." It should be said in justice to Bacon that he was as forcible as any in his condemnation of the oppression of the miners, and favored the investigation with the elimination of the fourth clause. His amendment, however, was defeated by a vote of 59 to 10, and the resolution, as finally shaped by the committee on Education and Labor was agreed to without a record vote. This differed from the original resolution in that it broadened the scope of the investigation to include an inquiry into agreements and combinations contrary to the laws of the country.

Thus for the first time in the history of the senate in a fight involving a contest between capital and labor the workers won. The leadership of Kern was not "repudiated" as newspapers antagonistic to him, counting their chickens before they were hatched, had framed their headlines to read. The next best

thing was done—as little was said about his triumph as possible.

X

And the result of the investigation was a vindication—and a triumph for the miners. The subcommittee of the committee on Education and Labor, to which was assigned the task of investigating, was highly satisfactory to the author of the resolution. It was proof positive against a white wash. Kern was particularly pleased with the presence on the committee of Borah, Kenyon and Martine, all of whom were temperamentally sympathetic toward the oppressed, and interested in social justice, and the first two were in addition able lawyers and men with vision. The committee sat in Charlestown in July and with a recess necessitated by important business in the senate, concluded its work in Washington in September and early October. The reports were all the more impressive because of their fairness and the conservatism of expression. Peonage in the legal sense was not disclosed. That men who were indebted to the companies were in a state of virtual peonage there is no doubt. No proof was found that any "attempt to prevent the delivery of mail to patrons of the postoffice" had been made, other than the fact that the postoffice, in the company stores, were frequented by the armed guards. No evidence was adduced showing a violation of the national immi-

gration laws though the fact was disclosed that men were induced through "misinformation and misrepresentations" to accept employment in the coal fields and that "hardships in this respect were disclosed." But the all important charge that the constitution had been set aside, martial law established, men arrested without warrant of the civil authorities, tried by drumhead court martials, and given sentences in excess of any provided in the statutes was made good. This phase of the investigation was in charge of Senator Borah, who treated the evidence in a conservative judicial manner. In his supplementary report Senator Martine took occasion to say: "I charge that the hiring of armed bodies of men by private mine owners and others corporations and the use of steel armored trains, machine guns and bloodhounds on defenseless women and children is but a little way removed from barbarism." Senator Kenyon in discussing the cause of the trouble and the suggestion of Bishop Donahue that "human greed on both sides" was responsible said: "It is a little difficult to realize how there can be so much human greed on the side of a man who is supporting a family and working day by day in the mines at ordinary living wages, but there is greed on the part of the owners of the property." And the committee report, commenting on the situation at the time of its preparation, said:

"The differences between the miners and operators, which were considered irreconcilable, have been amicably adjusted. Peace now reigns in this section where heretofore existed strife, contention, and armed conflict. The relations between the operators and the miners have become friendly and conciliatory. Business has been resumed and the mines are being operated. Martial law has been abolished and civil law and authority fully established. The committee is satisfied that the investigations have greatly aided in the accomplishment of these beneficial and much-desired results."

And the miners knew, what was of more vital importance to them, that none of their men would serve twenty years in the penitentiary at the behest of a military despotism, and Mother Jones declared that "Senator Kern threw open the prison doors for me."

The militant courage of Kern held high the torch that illuminated the darkness of the darkest spot, industrially on American soil, and it will never be so dark again. His action made him powerful foes, even in his own state. But it won him something that he cherished—the undying gratitude of the workers who go down into the earth for the fuel that warms mankind.

CHAPTER XVI

SENATORIAL BATTLES FOR SOCIAL JUSTICE

I

SENATOR KERN carried into the senate the keen sense of social justice, and the sympathy for the lowly which had characterized him through life, and during his term in the senate there was no controversy involving the rights or interests of the working classes in which he did not take an active interest. While no service he rendered to the workers required the courage called for in the battle against feudalism in the Paint Creek settlement of West Virginia, this was by no means an isolated instance of devotion to their cause. Nor was this in any sense a pose for political effect. He had an inherent hatred of oppression of the weak on the part of the powerful, and was temperamentally incapable of understanding the indifference of others. When during the pendency of the anti-trust bill letters poured in upon him urging that trade unions be placed in the same category with trusts, formed for the purpose of arbitrarily fixing prices and exploiting the consumers, he made no attempt to conceal his disgust. The insistence of some law-makers that the rights of man should be weighed in the same scale with the privileges of property, translated in the vocabulary of some into "rights," aroused his wrath.

In the mid-summer of 1914 an incident occurred in the senate during the consideration of the sundry civil appropriation bill which, more than any other one thing perhaps revealed Senator Kern's attitude toward the social and economic problems of the country. Some time before, the congress had created an Industrial Relations Commission and President Wilson had appointed as its chairman Frank P. Walsh of Kansas City, a lawyer of unusual ability who thought in terms of humanity—the ideal man for the position. This was one of the commissions that could be made worthless or worth while, according to the disposition of its membership, and the president had appointed a chairman who made everything worth while that he touched. He accepted his duties seriously and set to work in the most thorough and exhaustive fashion to probe to the bottom of the social and industrial problems of America. Within a few months he had accomplished enough to attract the attention of thinkers, social workers and economists to his work. The conditions he disclosed were in some instances startling. Senator Kern, who had sympathized with the purpose of the commission, read in manuscript the evidence taken by the commission at Philadelphia and was delighted with the spirit with which it approached its task, and impressed with the enormous possibilities for good from such an expose of evils.

He had enough faith in human nature to feel assured that amelioratory legislation would always follow the realization of its necessity as a result of the pressure of public opinion. He felt that many of the social and economic wrongs are permitted to exist merely because the public knows little about them, or knows them only as isolated cases of viciousness or injustice. He knew that the elements or interests that are the beneficiaries of such wrongs are vitally concerned in their concealment. And Mr. Walsh was seriously interfering with their peace of mind. The press was beginning to give considerable publicity to his work. The working class was intensely interested. Even the colleges were taking notice.

The result was the beginning of a propaganda to discredit the work of the commission, by picturing Walsh as a dangerous visionary, more or less socialistic, whose work was merely calculated to create bad blood between the employers and the employees. One feature of the propaganda was to create the impression that the commission was accomplishing nothing worth while and that public money was being squandered uselessly. "Why should such a commission be continued, anyway?"

When the sundry civil appropriation bill was under consideration by the senate July 7, 1914, Senator Borah of Idaho, whose views on social justice closely resembled those of Senator Kern, called attention to

the action of the Appropriations committee in cutting the appropriation for the commission from \$200,000 to a paltry \$50,000, which was equivalent to blotting it out entirely. With the appropriation previously made it had been utterly impossible to print the evidence taken at the various hearings. The reduction of the appropriation as proposed would have had the effect of destroying the commission utterly. If such was not the intention of the committee it was the desire of some members of the senate who feared the effect of the expose of the conditions of child labor and in the sweat shops and death traps where women are worked for a miserable pittance under conditions of sanitation disgraceful to the age.

In explaining the action of the committee Senator Martin of Virginia said that it was of the opinion that "no good was being derived correspondingly to that appropriation," and expressed his personal doubt as to the work of the commission being "advantageous to the public." Asked by Senator Borah whether the commission had been consulted as to the reasons for the larger appropriation, Senator Martin replied that it had not.

It was at this juncture that Senator Kern entered the debate with a warm commendation of the work and purposes of the commission.

As the fight developed—it consumed the greater part of the day—all those senators particularly in-

terested in a program of social justice took part in the debate against the committee amendment, basing their arguments on the ground that society is entitled to all possible light on industrial conditions to the end that amelioratory legislation may reach the vicious features. The amendment was defeated with a decisive vote of 46 to 18, but would probably have gone through but for the fact that Kern and Borah led an aggressive fight against it.

Thus the commission was saved.

This position in regard to the commission is a fair indication of Kern's attitude toward the problems, the wrongs and rights, of the men, women and children who earn their bread by the labor of their hands. And this attitude was consistently maintained, not only throughout his senatorial career, but throughout his life. This feeling grew stronger as he grew older instead of moderating with the chilling of the fire of youth, and he was never more radical along these lines than on the day he left the senate.

II

After his services to the miners of West Virginia Senator Kern's most distinguished service to the toilers was in the part he played in securing the enactment of the Seamen's bill, which was signed by President Wilson in the spring of 1915. The story of that measure reads like a romance. One of the

unaccountable neglects of a humane civilization had been its utter indifference to the insufferable wrongs of the men who "go out upon the sea in ships." The toilers of the land had been lifted from the degradation once associated with labor, but the toilers of the sea were left in servitude, not only with the knowledge but with the active connivance of governments. Underpaid, improperly fed, they were so much the slaves of the masters of the ships that a member of a crew deciding in port to sever his connection with the vessel was treated as the fugitive slaves before the war—hunted down by police officers and returned as escaped criminals to their masters. This impossible life gradually drove the more competent seamen from the waters and the traveling public paid the penalty in increased disasters. From 1860 until 1914 every succeeding record of lives lost at sea was lengthened, notwithstanding the better equipment of the boats. The rule that the wage fixed should be the wage paid at the port of employment led the ship owners to the manning of their vessels in ports where the scale of living was lowest, and the result was that the poorest seamen were entrusted with the lives of travelers. The ship owners only concerned themselves with profits. One of the reasons for the decline of our merchant marine was the refusal of Americans to take service on ships at the meager wage paid, and we entered into a treaty to arrest, detain

and return deserters from ships in American ports. Thus we deliberately entered into a conspiracy against ourselves; for if the men employed in low-wage ports deserted in an American port and the master of the ship was forced to man his vessel here he would have to pay the higher wage and thus the equalization of wages for seamen on a higher plane would result. We helped to keep the scale of wages down below the American standard and thereby deliberately forced American sailors from the sea. Before President Wilson signed the Seamen's bill of 1917 the sailors of the world were slaves.

The battle to right this wrong was waged for years through the patience and perseverance of one of the most remarkable lobbyists that ever haunted the capitol at Washington. Only a Victor Hugo could adequately tell the tale of Andrew Furseth.

Born in Norway, the Viking blood in his veins, he went to sea at the age of sixteen. He loved the sea. It was a hereditary passion. Standing on the shore and looking out to where the sky and waters met he thought he saw in the life of the sea the free life—and he had a passion for freedom. He soon discovered the tragic truth—he was the slave of the master of the ship.

"I saw men abused, beaten into insensibility," he said. "I saw sailors try to escape from brutal masters and from unseaworthy vessels upon which they

had been lured to serve. I saw them hunted down and thrown into the ship's hold in chains. I know the bitterness of it all from experience."

And he had seen over-insured and under-manned ships go down at sea because greedy owners would not furnish skilled seamen or provide lifeboats. He had lived to see white labor driven out by the shipping trust to make way for oriental slaves, and the sea power moving unmistakably to the orient as a result.

This condition was all the more bitter to Andrew Furseth, for he knew and loved the sea and its romantic history and knew that seamen had once been free men. He determined to dedicate his life to doing for the seamen what Lincoln did for the slaves, and he landed on the Pacific coast of America.

"For the seamen of the world," wrote John L. Mathews in *Everybody's Magazine*, "the most important event of the nineteenth century was the coming ashore of Andrew Furseth."

His first step was to challenge the greed of the shipping interests by organizing the seamen along the coast. The organization was small and its membership pitifully poor, and it faced the bitter hostility of powerful interests and a prejudiced or subsidized press.

Knowing that the seamen of the world would not be freed by his little organization alone, he went to

Washington as its representative. That was in 1894. The following twenty-one years of Furseth's life mark the greatness of the man. So low had the seaman fallen in the estimation of the world that this man with no other motive than to secure the enactment of legislation was under police espionage and for years was shadowed by detectives. His persecutors wasted money—his life was in the open. Year after year he pressed his case on members of the congress. Many were openly hostile. Some mildly curious. None greatly interested. Sometimes his bill was introduced and quietly smothered in committee. Sometimes he could find no one to present it. Men of less heroic mould have succumbed to despair. Furseth never despaired. He never stormed at fate. He persevered. He was like the character in Hugo's *Toilers of the Sea*.

Working for a ridiculously small salary, when hard times came upon the country he voluntarily cut his own pay. With no small vices to feed, he found he could exist on next to nothing in a sailors' boarding house. Asked once if he had laid anything aside for old age, he made an answer that deserves to live:

"When my work is finished, I hope to be finished. I have made no provision against old age, and I shall borrow no fears from time."

At length he forced attention. The Democratic party in its Baltimore convention incorporated a

plank in its platform which pledged the party to the abrogation of treaties obligating the United States to hunt down and return as criminals the deserters from foreign ships in American ports and to general legislation in the interest of the seamen. Senator Lafollette introduced the Seaman's bill.

That, however, was only a beginning and did not necessarily signify anything. The bill was certain to encounter the most bitter opposition of the most powerful interests, and senators naturally ultra-conservative were certain to find plausible reasons for opposition in the protests of foreign governments. The only hope was in enlisting the active sympathy and interest of an influential leader of the majority, and Furseth was urged to present his case to Senator Kern.

I shall let Furseth tell the story of his first call on Kern:

"Shortly after the senator came to the senate I went to him and asked his permission to tell him about the seamen. He had no time then, but told me to come to his hotel. Upon my arrival at the appointed time I told him it would take me at least twenty minutes to give him some idea of what I had to say. He told me to go ahead. I did and I was with him for about an hour and a half. In a quiet easy way he encouraged me to talk, and I told him about the seaman's daily life on the vessel, but more so on the shore. At sea, the terrible quarters, the ceaseless

toil, the poor food, the general treatment and the longing to get away from the life which was degraded by involuntary servitude and a feeling of helplessness. On shore, the power of the Crimp to dictate our wages and take away what we were to earn in the form of advance or 'allotment to the original creditor,' as the thing was called; the power to compel us to go to sea in any vessel and with any kind of men—destitute poor devils who set our wages when we were hired and whose work we had to do at sea because they could not. With it all a feeling that we were forgotten by God and held in bitter contempt by men on shore. When I stopped he would ask a question and set me going again, and then he said—'I shall see whether we can not help you.'

"And he certainly did. I tried not to go to him too often; but it was often and he was always kind and encouraging. I always left him with more hope in my heart, and sometimes I needed it sorely. If God ever placed upon the shoulders of men a part of the burdens of others the senator was surely one of those men. My burden was always lighter and my heart more free when I left him.

"There never was anything that he could personally do to help getting the Seaman's bill through that he did not do. He helped to get the bill considered. He helped to get it passed. He saved it when the London Convention and the treaty adopted there was about to strangle it for good. If that treaty had been adopted the Seamen's bill could never have been passed. That treaty was designed to keep the Americans from the sea, and if the United States

now has the men needed or is able to get them, not only the seamen, but this nation owes the thanks therefor to Senator Kern."

After the bill had passed both branches of the congress and went to the president for his signature the most remarkable efforts were made to persuade President Wilson to veto it. These efforts were made by the most powerful influences that think in terms of money rather than in terms of humanity. The National Chamber of Commerce took an active part in condemnation of the act. Delegations called at the White House to assure the president that the law would destroy American commerce.

It was at this juncture that Senator Kern rendered his last great service to the seamen. At the head of seven or eight senators he called at the White House to urge the president to sign the bill. It was signed on March 4th.

The Seamen's law, which is the Magna Charta of seamen's rights, would sooner or later have been enacted because ordinary humanity demanded it, but the interest of Senator Kern in its passage unquestionably hastened the breaking of the chains of the slaves of the sea. No one was in the position to proportion the credit that Furseth was and it is enough for the historian to know that the three men who received in largest measure the gratitude of the old Norseman were President Wilson, Robert M. La-

follette and John W. Kern. One year after the law had gone into effect, and two months after Senator Kern's defeat for re-election to the senate, the man whose "coming ashore" was the "greatest event of the nineteenth century" to the seamen of the world wrote:

"WASHINGTON, D. C., Dec. 31, 1916.

"Hon. John W. Kern, U. S. Senate:

"MY DEAR SENATOR—The seamen have lived through one year in freedom, in hope, and in gratitude to you. On their behalf and for myself I wish you a blessed New Year and all the happiness that can come to those who feel the pain of others. May God in his mercy to us and to all who toil preserve you in health and strength to fight on for man's freedom.

"Faithfully and respectfully yours,

"ANDREW FURSETH."

III

In the summer of 1916 a bill bearing the names of Senator Kern and Representative McGillicuddy of Maine and affecting the interests of 400,000 people was enacted into law. The passage of this bill, the Kern-McGillicuddy Workman's Compensation bill, was many years over due.

"It has been disgraceful," he said in the senate, "that the great government of the United States has lagged behind every nation in the world, civilized

and half-civilized, except Turkey, in the care it has given to the people who are employed by it."

About this time he was making a futile effort to secure adequate compensation for an Indianian who had been hopelessly crippled by an accident in Panama while in the government service, and the difficulties he encountered outraged his sense of decency and justice.

When the bill reached the amendment stage, it was due to the vigilance of Senator Kern that it was not emasculated by amendments, offered in good faith, no doubt, but utterly destructive. Senator Smith of Georgia insisted upon writing a contributory negligence clause into the bill. This was earnestly contested by Senator Kern on the ground that while there might be some justification for such a clause in an employers' liability law, it would defeat the purpose of a government workman's compensation act, and would deprive the government employee of the sense of absolute security to which he was entitled.

And he just as vigorously opposed the proposal of Senator Cummins to have the law administered by a bureau instead of by a special commission.

During his service in the senate he never ceased to marvel at the light manner in which hundreds of thousands of dollars were appropriated for elaborate postoffice buildings where a very simple and inexpensive one would do, and the pitiful parsimony

with which some statesmen were inclined to deal with expenses incidental to the legal protection of the lives and interests of the workingmen.

The measure was finally passed in August, 1916, in practically the form in which it was presented, carrying with it an inestimable boon to 400,000 men and women who were doing the civil work of the nation.

IV

During the same summer Senator Kern made his heaviest contribution to humanity in the part he played in forcing the consideration and passage of the child labor law. This was a subject that had been near his heart for many years, and we have seen that almost a quarter of a century before while a member of the state senate he had fought to place a child labor law upon the statutes of the state. For many years efforts were made from time to time to pass a child labor law, but without results. The public opinion of the republic had long been crystallized against the exploitation of childhood, and social workers had accumulated the most damning evidence against the system, but the statesmen seemed impervious to the pity of it, and cynically found excuses for non-activity. But a few years before Senator Kern had listened to the witnesses called by the House committee investigating the strike in the mills

of Lawrence, Massachusetts, and had been sickened by the sight of pale, anemic, underfed, overworked children who were actually forced to pay for the cold water that they drank while at work in the mills. He hated the exploitation of childhood with a holy hate, and one of his ambitions was to be able to strike a blow at the system while in the senate.

One day in the summer of 1916, at a time when senators and congressmen were anxious to get back to their constituents in preparation for the campaign, and with the program already crowded, the congress and the country were electrified by the action of President Wilson in demanding action upon the child labor bill then pending in the senate. Without warning he appeared at the capitol one afternoon and repaired to the president's room, where he had grown accustomed to hold important conferences on legislation, contrary to the custom of his predecessor, and summoned Senator Kern. The senator was first informed of the president's presence at the capitol by a page who had been hailed by the executive and asked if he would inform Senator Kern that he was wanted in the little room, with its Brumidi decorations, beyond the Marble Room. There was a brief conference, after which other senators were summoned, and the word flashed over the country that the president had created another stumbling block

to adjournment by insisting upon the passage of the child labor law. From that time on Kern exerted himself to the utmost in pressing for action.

But behind that incident there was another which throws more light on the importance of the part played by Senator Kern in forcing a child labor law upon the books. Some time before the Democratic senators had held a caucus to determine upon the legislative program for the remainder of the session, and Kern had made an earnest plea for the consideration of the child labor bill. He had met with a stubborn opposition, for there were states represented in that caucus in which the factories were operated to a large degree by child labor. Indeed it had come to be a favorite sneer of the socialists that the Democratic party could never be counted upon to rid the nation of that evil because of the opposition of the industrial interests of certain southern states. In the caucus Senator Kern not only urged this as a political reason for action, and made a personal appeal on the ground that failure to act would probably lose Indiana to the Democracy in the campaign of the fall and defeat him for re-election. But the opponents of such legislation were adamant and the caucus adjourned with no provision for child labor legislation and with the decision to not take up the immigration bill until in December.

Soon after this President Wilson made his call at

the capitol; and a little later a few Democratic senators, regardless of the caucus action, voted to call the immigration bill before the senate, and the protest of Senator Kern, together with the excoriation of the recalcitrant senators by Senator Stone, impelled the men who disregarded the caucus action to defend themselves. In the course of Senator Vardaman's defense he dropped the curtain on the proceedings of the caucus, and incidentally threw light on the prominence of the part played by Senator Kern in forcing labor legislation upon the statutes.

"I remember distinctly," he said, "that the senior senator from Indiana stated to the caucus that a failure to pass the child labor bill would militate very much against the Democratic party in Indiana and would probably defeat him for re-election. But the caucus adjourned with a program agreed upon which left out the consideration at this session of the child labor and immigration bills. The next morning I heard that the distinguished senator from Indiana—the Democratic leader, mind you—was very much dissatisfied with the caucus action and was busily engaging himself trying to create sentiment in favor of rescinding the action of the caucus of the evening before. It was also whispered that the president would be invited to take a hand in order to save the senator from Indiana from the evil effects of non-action upon the child labor bill. The correct-

ness of these rumors was soon verified. In due time the president of the United States appeared at the capitol and called certain senators into consultation. But as to what he said—or ordered—I am not at liberty to speak, since I was not one of the senators consulted.”

We can do no better than permit the Mississippi senator to serve us as reporter of Senator Kern’s position in the caucus, and his activities after the caucus to bring about such a reconsideration as to include in the program for the session the consideration of the child labor bill. And the Mississippian’s interpretation of the action of the president, it may be added, was shared by others who were chagrined at his interference in the program. However that may be, it may be said that Senator Kern and the president were in whole-hearted accord on the child labor bill and that their joint work was largely responsible for the passage of the bill.

That the country generally at the time looked upon Kern as the leader in the fight for the child labor bill was soon evident in the disposition of both the friends and enemies of the proposed legislation to attempt to influence him through propaganda. While it had always been his policy to submit petitions and protests to the senate, regardless of his individual opinion on the matter involved, on the broad ground that the people were entitled to the

right of petition, so profound was his hate of child exploitation and so intense his contempt for those who tried to prevent it, that he refused to burden the Record with the protests. In only one instance did he give any attention to the letters of the defenders of the exploiters of childhood. A minister in a southern community had written him a sanctimoniously worded letter on the beauties of child slavery, on the philanthropy of the mill owners in preventing the starvation of families by permitting children scarcely in their teens to work for a pittance in the mills, and this aroused his wrath because it came from a minister of the Gospel. For ministerial defenders of inhumanity he had no words with which to measure his contempt. In this instance he did attempt to give expression to his personal contempt for the minister in a letter of withering sarcasm, and this letter he gave to the press. Among the men of importance who wired him in the interest of the bill were Charles W. Eliot, the famous educator, Rabbi Stephen S. Wise and the Rev. Lyman Abbott of The Outlook, and he put their pleas in the Record. Of especial value, from his point of view, as supporting the position he had taken in the caucus when he had been outvoted by his party colleagues, was the telegram of President Eliot:

"I venture to express the opinion, in view of the coming presidential election, it would be very unwise

to postpone the passage of the child labor bill until December next. The Democratic party needs the support next November of the numerous Republicans and progressives who are interested in child labor legislation. The party has nothing to lose by passing the bill and possibly much to gain."

This view Kern persistently pressed upon such Democratic senators as held back, and the bill was finally taken up and passed with so little opposition on the floor as to be a marvel to those who had striven for a decade to interest the congress in such legislation. Here, as in many other cases, the work of Senator Kern was effective and important, but not done in the limelight, and the general public in rejoicing over the enactment of the law manifested no special appreciation of the services of Kern. This did not concern him in the least. It was enough for him to know that the blow at child slavery had been struck. In his speeches in the campaign of 1916 he dwelt to some extent upon the passage of the child labor bill, but never once did he give any indication that his part in its passage was greater than that of the senator who merely voted for the bill.

Nevertheless his was an important and a leading part.

CHAPTER XVII

IN THE ROLE OF SENATE LEADER

I

NO single administration since the days of Jefferson has ever approached the record of the first administration of Woodrow Wilson in constructive achievement, either in the quantity or quality of it. One month after assuming office the congress was called in extraordinary session, and from April 7th, 1913, until October 24th, 1914, it was kept continuously at the grind, engaged all the while with administrative and party measures of the first magnitude. During the four years that Senator Kern had the grave responsibility of piloting these measures through the senate, the congress was in session 1,022 days, which means that out of four years there were only eleven months that it was not engaged with a legislative program of vital importance. During the first two years the responsibility upon the senate leader was especially heavy because of the meager Democratic majority and the ever-present possibility that some few Democrats might refuse to work in harness and thus precipitate confusion, embarrassment and defeat. The program throughout was uncompromisingly progressive, and in accord with party sentiment, but there were not a few Democratic senators of reactionary or ultra-conservative tenden-

cies who were not enthusiastic over the program, and it was necessary to cultivate by conciliation the few Republicans of progressive leanings. When after four months the Underwood tariff law was passed, *The Boston Herald*, commenting on the victory, called attention to the fact that a president usually had his wishes reasonably met in the house, but disregarded by the senate, said that "Mr. Wilson with a small majority in the senate has been able to hold it in line." And yet there were animated discussions and numerous disagreements among the majority senators that had to be ironed out in caucuses; one Democratic senator bolted the caucus and denounced it as being "machine-run" on the senate floor; and during the intolerable sultry days of the mid-summer it was with the greatest difficulty that all the Democrats were kept in Washington and within call in the event of a Republican "surprise." Even at its best the national capital is not a summer resort. The heat is intensified by the humidity, and the town swelters and steams. The senate chamber, with no outside ventilation, the light streaming gloomily through the glass above, becomes deadening and depressing, and even the great revolving fans fail to make it comfortable. As the tariff fight dragged on into July and August and the call of the seashore and the mountains became insistent, it was with difficulty that the Democratic majority could be main-

tained in Washington. And even when they remained in Washington it was almost impossible to keep a quorum at the capitol. Walter Johnson was pitching at the ball park, the racing season was on in Maryland, the refreshing shadows of Rock Creek park were an attraction, and after responding to the morning roll call the senators drifted from the chamber and away from the hill, and for days at a time the senate, seen from the gallery, seemed deserted. But some one had to know where to reach them should the enemy plan a surprise attack; some one had to remain in the chamber throughout the day on guard—and that “some one” was Kern. The man who for years had so weakened in mid-summer as to make it necessary for him to seek the breezes of Michigan, was forced to shut himself within the stuffy chamber in one of the most enervating summer cities in the country. This eternal watchfulness and anxiety told upon him, but he was sustained by his joy in seeing the things he had so long sought being realized. At times when the regular Democratic attendance had dwindled to a corporal’s guard his impatience manifested itself in caucus, where on one occasion he supplemented his appeal with sarcastic protests, and a “party whip” was selected to assist him. The “whip” sent out an eloquent letter of appeal, apologizing in advance for the unpleasant necessity of insisting upon a regular attendance, and

almost immediately disappeared. On his return Kern accosted him effusively in the cloak room:

"I am delighted to find you have recovered," he said. "Your appearance is good and I hope you are now feeling better."

The flabbergasted statesman, taken by surprise, stammered:

"But, Senator, I have not been ill."

"Not ill?" said Kern. "Well, I had not seen you around for several days and supposed, of course, that you were ill."

Another senator who had been enjoying the shades of the verandas and wooded spaces of a summer resort was wired by Kern to return to Washington as he was needed. His secretary called upon the Indianian the next day to explain that his chief's return had been delayed by his inability to get a seat in the chair car. Taking from his vest pocket a number of clippings from *The Washington Post*, Kern dryly observed that the senator had been playing a good game of golf, had attended a number of dances, and given a dinner.

Still another statesman, a popular figure among Democrats because of his impetuous partisan devotion upon the stump, remained in Washington at his home without so much as reporting for the morning roll call, and repeated expostulations failed to per-

suade him to resume his duties, until he was threatened with a denunciation and caucus action.

When at length the tariff bill was passed, the prevalent sentiment was for adjournment, but the president insisted upon the immediate consideration of the proposed Federal Reserve law. The country applauded, but there were guttural grumblings in the cloak rooms.

Almost immediately opposition to many features of the administration's measure asserted itself among Democratic senators; the demand was made for prolonged hearings; Senator Lewis assured *The Chicago Inter Ocean* that there would be no currency legislation that session; the committee on Banking and Currency found itself deadlocked and a caucus of Democratic senators was called to break it; until finally things were so whipped into shape that a Democratic conference was able to agree after the Thanksgiving holidays that there should be no Christmas recess unless the currency bill had passed by December 24th.

The session merged into the next session without adjournment, and more administration measures calculated, as the president contended, "to destroy private control and set business free" were pressed for immediate consideration. The Trade Commission bill, and then the new trust measures, prolific of in-

finite contention among Democrats followed. And from time to time the faint shadow of the Mexican situation fell upon the gloomy chamber, and then the great cloud from across the sea, when the German army crossed the Belgium border. But the grind went on.

The temper of the Democrats was not sweetened nor their anxiety diminished by the approach of the fall elections of 1914. The special interest and opposition papers were bitterly assailing the administration measures, business had been temporarily disarranged by uncertainty and in some instances with sinister intent, and the law makers faced the possibility of submitting their political fate to their constituents without an opportunity to mend their fences. An effort was made to postpone action on the trust bills lest the controversy over whether trade unions should be included among the trusts in the meaning of the law should have a disastrous effect. There were some Democratic senators who stoutly insisted that they should, and in addition to his routine work as leader, Kern threw himself passionately into this controversy, indignant that any one should place in the same class the organization of business to arbitrarily fix prices and oppress the public, and the organization of workingmen for the purpose of compelling a living wage and living conditions.

At length, having been in continuous session for 567 days, and written into law the greatest amount of progressive constructive legislation ever written in so short a time in the history of the country, the congress adjourned less than two weeks before the elections. Throughout this period Kern had played a vitally important part, but not a spectacular one. When the senate was not in session he was busily engaged with the Steering committee in efforts to reconcile differences, to conciliate the disgruntled, and owing to the meager majority always in danger of being overthrown, frequent caucuses were called at night, and, when time was pressing, on Sunday mornings. His work was not the sort that strikes the imagination, but it was the kind that counts, and with a less astute, patient, conciliatory and watchful leader the story of the achievements of the Wilson administration during the first two years might never have been written as it was. So completely did he dedicate his time and energy to his work that weeks went by when he never entered his offices in Senate building, and senatorial duties more important than those of routine were performed by his assistants.

When the first congress of the Wilson regime passed into history James Davenport Whepley, writing of the president in *The Fortnightly Review* (London), said that he had "formed a legislative program which would have staggered a more ex-

perienced leader" and predicted that his power over his party in the congress would decline. As a matter of fact there was an undercurrent of rebellion, and it was not always that the comments of statesmen in the cloak room harmonized with their observations on the platform.

In the short session beginning in December, 1914, and ending March 4, 1915, this spirit of rebellion burst into flame but soon smouldered to ashes. The occasion was the president's Ship Purchase bill, which was bitterly assailed by the special interest press and opposed by the Republicans with more spirit and unanimity than they had displayed before. Democratic opposition of a virulent nature developed. The caucus called by Kern voted to support the bill, but the opposition persisted. The filibuster that resulted has never been equaled since the Force bill days. Men like Senators Root and Lodge remained on duty like soldiers day and night. The forces behind the idea of a subsidy for private interests were never so alert. Senator Penrose, who had been so "ill" in Philadelphia that he could not venture to Washington to appear before the committee on Privileges and Elections which was considering an investigation of charges that a million dollars had been spent to assure his election, reached Washington over night and appeared in the senate chamber a perfect picture of robust health. Kern, who

knew that he was in Washington, smoked him out of his retirement through a telegram suggesting that the Philadelphian send a physician's statement to the effect that he was too ill to appear before the committee on Privileges and Elections. The debate was a mockery—such as those of filibusters always are; with men presumably of presidential caliber consuming hours of the public's time reading pages from books having no relation to the bill under consideration. Plans were perfected to hold the senate in session day and night until a vote could be had, and Kern had comforts sent to his committee room on the gallery floor with the intention of getting a few winks of sleep from time to time. Then came the revolt. Seven Democratic senators bolted the caucus action and voted with the Republicans to refer the bill back to the committee. It had all been carefully planned, and some of these Democratic senators during the afternoon just before the vote had been observed making numerous trips to the Republican cloak room. It was the only instance during the four years of Kern's leadership that he was unable to hold his party together behind an administration measure.

When the congress again convened after the summer adjournment of 1915 a better spirit of co-operation had been restored. After the passage of the Rural Credits bill, which is one of the great pieces

of constructive legislation to the credit of the party, the greater part of the time was given over to the so-called "preparedness legislation" and the passage of measures recommended by the president to meet the international crisis which was growing more acute because of the short-sighted policy of Berlin. Although not enthusiastic over the preparedness program, and ardently anxious to prevent war, Kern accepted the leadership of his chief and supported him in all his measures. No member of the senate was more intimately identified with the president's plan to prevent the threatened railroad strike in the late summer of 1916, as we shall see later on.

II

Never for a single moment in four years was a resting place in sight. President Wilson's program "to destroy private control and set business free" was not concluded with the passage of the four or five great measures that caught the superficial eye, but it reached in its ramifications into all the byways of national life. Time and again when the senate was struggling under a deluge of important administrative measures, with the end far distant, and the members, work-weary and anxious to get back home, Senator Kern was appealed to by the president to add as many as half a dozen bills to the calendar for disposal during the session. These were always impor-

tant and essential to the president's purpose of destroying private control and setting business free, but they were not always appreciated at the time by the press or general public at their true value. While always in harmony with the spirit of the pledge of the party they frequently went beyond the specific promises and thus made it possible for Democratic senators sweltering in the heat to question the necessity of their enactment as a party duty. None of these but delighted Kern. And thus he was constantly engaged in feeling out the sentiment of his party colleagues, constantly consulting with the leaders, and reporting to the White House. Not infrequently the prevalent sentiment was in favor of postponement, but on the gentle, tactful but firm insistence of the president he would renew his efforts, usually ending in conferences of the Steering committee and party caucuses and the decision to act. While the machinery in the senate appeared to the casual observer to almost invariably be moving smoothly, there were many tempests in the teapot, occasionally a disposition to revolt. The opposition was always ready with its taunts that the Democrats of the senate had abdicated their senatorial prerogatives to the White House, and some wise observers for the press were fluent with their articles charging degeneracy to the senate and recalling the "good old days" when senators were "strong enough" to set aside presidential

programs, but this did not annoy Kern in the least. He was content that some one had been found in high station with enough strength and prescience to point the way to the realization of the things he had fought for for many years, and to lead. But this situation kept him busy at his work of conciliation and ironing out differences. It was here that the personality, the character of Kern counted. He was popular with his colleagues on the Democratic side of the chamber, and no one doubted the sincerity of the man who without pretense had grown gray working for the day that had finally dawned, and no one questioned the soundness of his political judgment. His personal appeals for "harness work" for the sake, not only of the immediate principle involved, but of the party's future reputation as a constructive force, had effect.

And it was here that his real strength as a leader impressed the superficial as a weakness. He never permitted temporary disagreements over single issues to deprive him of the friendship and confidence of the recalcitrant, or to lead him to hasty words of criticism or denunciation that would return to plague him in the next battle. When the seven senators deserted and bolted the caucus on the Ship Purchase bill he was saddened by the possibilities of serious future disagreements, but he was silent. Other Democratic senators took it upon themselves to bitterly

denounce the "bolters" on the floor of the senate, and some thought this presumption an act of leadership of which Kern was incapable. They were right. It did not appeal to him as wise leadership to drive these men into chronic opposition to administration measures.

Kern was too tactful to have broken off relations with all his fellow Democrats who might at times wander from "the reservation." He was not a bull in the china shop type of leader—fortunately for the Wilson administration and the party.

There were some, too, who could not understand how a leader could really lead and not occupy much of the senate's time with speeches. During the four years that he was leader he seldom spoke. The program was crowded. It was of vital importance that this program should be written into law. This was particularly important during the first two years, for had the elections of 1914 resulted in a Democratic defeat in the House, the administration would have found itself at the end of its rope. It was of vital importance that the principal reform measures should be enacted. And it was clearly the policy of the opposition to curtail this program as much as possible through the prolongation of discussion. After all differences had been adjusted on the Democratic side, noses counted, and a majority found secure, it was Kern's idea that the Democrats should

let the Republicans "talk themselves out" as soon as possible and force an early vote. This policy was agreed to. But even after the agreement had been reached it was impossible to restrain some talkative Democrats from entering into verbal combat with the opposition and thus consuming precious time unnecessarily.

Thus during the long, weary days, weeks, months that these party and administration measures were pending Kern was at his post in the all but deserted senate chamber, paving the way for the vote; and when all the differences had been ironed out as to details, and the opposition had exhausted its lung power, and noses had been counted, and victory was assured, and the day for the vote was fixed, the orators flocked into the chamber from the ball park and the race courses to thrill the packed galleries with their perfectly useless eloquence and grasp the headlines on the first page of the daily papers to impress the groundlings with the idea that they had contributed mightily to the result. On these grandstand occasions Kern attracted no attention in the galleries.

But with the credit he was not at all concerned. (It was enough for him that a victory had been scored and that he had done his full duty.

III

During the four years Kern's relations with President Wilson were cordial and confidential. His ad-

miration for the president knew no bounds. He never left him after a conference without being impressed anew with his remarkable grasp of affairs, his amazing prescience, his genius for work. "Uncannily wise"—was his verdict on one occasion. His conferences at the White House were so frequent that they became as the regular routine. Very often he went to the White House at night alone. And while some statesmen never failed to capitalize all meetings with the president, one of the rules laid down by Kern for the guidance of his office force was that no publicity should ever be given to his visits to the other end of the avenue. No living man is capable of properly estimating his services to the first administration of Woodrow Wilson but the president himself.

During the trying days of late August and early September, 1916, the country was seriously threatened with a general railroad strike that would have prostrated business and wrought general ruin. There have been a few more important but probably never more dramatic incidents than those surrounding the president's efforts to save the country from this disaster. When he summoned the railroad presidents and the men to the White House for conferences it was with high hopes that a mere appeal to their patriotism would result in mutual concessions, but it soon developed that the presidents of the roads were indifferent to the public welfare. As the day set for

the strike approached everything was laid aside by the president and the congress to concentrate upon the one pressing problem. On the night of the day the railroad presidents refused to accept President Wilson's plan of settlement calling for an eight-hour day for the men, increased freight rates for the roads and a permanent arbitration commission, some light is thrown on the situation as it appeared to the leaders at the capitol in a letter of Senator Kern to Mrs. Kern:

"I am heartsick to-night that I can not be with you to-morrow (Sunday), but things are happening so rapidly here that I can't leave. Nobody knows what is going to happen the next day. The railroad situation is alarming. The railroad presidents who are here seem to be determined not to yield to the president's requests, and if they persist it means the greatest strike in the history of the country—one that will tie up every railroad and stop every train in the country. The president came to the capitol to-day and called Senator Newlands, chairman of the Railroad committee, and myself into his room to talk over a proposition to amend some of our arbitration laws and the Interstate Commerce law, so as to make further negotiations possible. . . . It is difficult to-night to foretell just what the outcome will be. The men who own the roads seem to care nothing for the public interests, and if disaster comes it will largely be their fault. I am calling the Steering committee together to-morrow (Sunday) and the

president will probably come down to confer with a number of senators and congressmen Monday morning. I am holding up in health first rate. The weather has been much better since I last wrote you and is pleasant to-night. Yesterday morning I woke up at 6 o'clock and pulled down the blinds and thought I would sleep until 7:30 and didn't wake up until 9. Am trying to get at least eight hours sleep every night."

The following day the Steering committee met in the morning, the railroad presidents, unbending, left for their various headquarters to prepare for the strike, and that night (Sunday) the president did an unprecedented thing. It was a stormy night, the rain descending in a torrent, and the Finance committee was at work in the room in the basement of the capitol. Suddenly the capitol police, who had deserted the entrances to the capitol for their own room in the basement, were startled by the appearance of the president at their door. He had left the White House in his machine in the storm in search of Senator Kern. The senator was summoned from the committee room, and in the gloomy basement corridors the president and the senator began a conference which ended in the president's room off the senate chamber after a janitor had been found to open the door. It was that night that President Wilson announced that he would hold the congress in session until the needed railroad legislation was enacted.

On Monday morning the conference of the president with senators took place in Kern's private room, 249 Senate building. A second conference was held in the same room during the crisis—a history-making conference—at which the president's line of action was outlined and adopted. The needed legislation was enacted on September 2, the country was spared the most disastrous industrial conflict in its history, and the country will not soon forget the remarkable indifference of the railroad presidents to the public's interest. Throughout this crisis Senator Kern played a more important part than appeared upon the surface. His popularity with organized labor made it possible for him to bring some influence to bear upon their attitude, and he was kept in touch with all the conferences of the men through reports submitted to him after each meeting by men participating in them.

During the last two years and more of his leadership Senator Kern was greatly concerned with the international situation as it related to the world war. He hated war. He understood the frightful meaning of the struggle should conditions force us in. While not a member of the committee on Foreign Relations, he was in the confidence of the president and knew of the conditions that were tending to make war inevitable to a self-respecting people. So passionately was he opposed to war that he had little

patience with Americans on pleasure bent insisting on traveling unnecessarily—through the war zone. He recognized their legal right to do so but was intolerant of their indifference to the possible effect upon the peace of a hundred million people. And yet he supported every move made by the president as justified by the insane policy of Berlin. "The condition is hell," he wrote a friend in January, 1916. "The cyclone may hit us within a few weeks. Nothing short of a miracle can stop it. I have been up against some pretty knotty propositions, but nothing like this."

On February 21, 1916, the president called into conference at the White House Senator Kern, Senator Stone, chairman of the Foreign Relations committee of the senate, and Representative Flood, chairman of the Foreign Relations committee of the house—a conference prolific of endless speculation and portentous in its meaning, in which, according to *The Literary Digest*, he announced that he would "prolong negotiations with Germany no longer if the coming communication from Berlin fails to meet the views of the United States." That crisis passed with the acceptance by Germany of the American view—an acceptance that was to be repudiated by Chancellor von Hollweg a year later with the remarkable explanation that at the time the promise was made in regard to ruthless submarine warfare Germany was

not in position to refuse. During the short session of December, 1916-March, 1917, the atmosphere of Washington was charged with electricity. The discovery of the Zimmerman plot in Mexico and the repudiation of the submarine pledge left little ground on which to predicate a hope for peace. At the capitol something was expected to happen at any moment. When the president asked the congress for authorization to arm merchantmen Senator Kern supported the authorization, and the end of his leadership, and of his senatorial career, came at an hour when we could already hear from afar the thunder of the guns.

During the four years of his leadership Senator Kern was thrown into intimate contact with members of the cabinet who were interested in administration measures affecting their departments. His relations with Mr. Bryan continued to be cordial and close, and while he frequently consulted with him on party policy, his official relations with the secretary of state were not so important as with other members of the cabinet. In the nature of things he was more frequently called into consultation by Secretary of the Treasury William G. McAdoo than by any others. With the tariff bill, the currency bill and the ship purchase bill, three of the most important administration measures, the head of the treasury department was deeply concerned. In the course

of innumerable conferences Kern formed a high opinion of McAdoo's statesmanship and capacity for leadership, and the mutual nature of the appreciation is manifest in the letter from Mr. McAdoo, now before me, in which he says:

"John W. Kern served as Democratic leader of the senate during a period when some of the most important legislation in the history of the country was enacted into law. With the people's interest ever uppermost in his mind, he marshaled the forces of his party with infinite patience and tact, and always with self-effacement. He was loved and respected by his colleagues, regardless of party, and always possessed the confidence of the public and the administration. He was a patriot and citizen of sterling worth, and the Democratic party had in him an able, genuine and genial leader."

After Bryan and McAdoo, his most intimate relations were with Secretary of the Navy Josephus Daniels and Secretary of Labor William B. Wilson. There was much in common between the secretary of the navy and the senate leader. Their friendship long antedated the triumph of the party. The genuine democracy, the sincerity and simplicity of manner, and the high moral character of Daniels made him peculiarly attractive to Kern; and during the time that the sinister special interests were busy with their propaganda of belittlement of the secretary,

when Kern was cognizant of the wonderful record he was making, he took occasion several times to protest from the senate floor. The senator's estimate has been so overwhelmingly vindicated by events since the United States entered the war that nothing need to be said of the viciousness of the assaults.

It was inevitable, of course, that Kern should have been intimately identified with Secretary Wilson. No member of the senate was so wholeheartedly in harmony with the labor movement or with the policies that the labor department espoused. It will one day be recognized as fortunate that the senate leader during the first days of this department was not only friendly but aggressively so. It did not require more than an occasional hour in the gallery to observe at times a distinct feeling of hostility to the new department, which was not confined by any means to the Republican side of the chamber. This was observable in the matter of appropriations to carry on its work. Kern was ever alert to protect it against injustice and ever ready to actively co-operate with Secretary Wilson in all his plans.

While not thrown into such frequent contact with Secretary of the Interior Franklin K. Lane, he looked upon him as one of the strongest men in the administration, whose uncompromising progressivism was one of the party's strongest assets, and this feeling was warmly reciprocated by Lane.

Thus, dedicating himself and all his energy to helping put through a progressive program of which he had dreamed for many years, working with administration leaders for whom he had not only admiration but affection, he was happy to serve, to efface himself in serving, and to find his reward in the achievements.

IV

It is significant of his personal popularity with his colleagues that after four years of the most trying, grinding legislative achievement in the history of the republic, he carried from the chamber at the close the confidence and affection of the men with whom he wrought.

This was due in large part to his infinite patience and never-failing tact. He never assumed the rôle of a dictator. It would have been repugnant to his nature, and would have outraged his sense of the proprieties. Had he, or any one else undertaken to lead as Aldrich led for the opposition so many years, he would have invited an inevitable revolt. He carried his points by his insistent persuasiveness. It was much easier for his colleagues to conform with his wishes than to run counter to them.

I am indebted to Senator Charles S. Thomas, one of the keenest intellects in the senate, for an appraisal of his leadership from the viewpoint of his fellow senators:

"Senator Kern was the most kindly, efficient and practical of men, and an ideal leader for a majority just coming into control of a great body like the senate, after an exile of twenty years. No other member of that majority could, in my judgment, have done the work so well and so satisfactorily as Senator Kern; hence his unanimous selection for that position was inevitable when the sixty-third congress was organized.

"The senate was composed in the main of members from the southern states, with a large contingent of new men from the north and west, having comparatively little legislative experience, but all eager to accomplish the legislation promised the people by the national Democracy. This desire very naturally aroused ambitions for chairmanships and other places of distinction upon the great committees, threatening rivalries and possible conflict that might prove dangerous to the very slight majority then existing. These differences were adjusted by Senator Kern after many conferences, some of them presenting difficult situations, and some apparently incapable of solution. The senator's judgment of men, his methods of appeal and his wonderful tact in dealing with his associates enabled him in the course of ten or fifteen days to report a plan of organization absolutely satisfactory to all of his associates with a solitary exception. Even that exception finally gave way to Senator Kern's resourceful, courteous and generous methods of treatment. I think it can be said with perfect truth that the enactment of the great program of reform legislation by the sixty-third congress was

due as much to Senator Kern's splendid leadership as to any other single influence. An epitaph to that effect should be written upon his monument."

To former Senator James A. O'Gorman of New York, for whom Kern had a feeling of admiration and affection, I am indebted for an estimate which emphasizes other points that entered into the making of his leadership efficient:

"My relations with Senator Kern were close and familiar during the four years that he was chairman of the Democratic caucus. This position carried with it the Democratic leadership of the senate. During this period I was a member of the Democratic Steering committee, of which Senator Kern was chairman. I entered the senate with him on April 5, 1911, and his selection as Democratic leader in 1913, after two years' service in the senate, was a testimonial of the great respect in which he was then held by his colleagues. His upright character, his recognized ability and his attractive personality had already given him a strong hold upon their esteem. At our conferences, which were frequent, he was wise and resourceful in suggestion. On these occasions he invited the freest discussion of legislative plans and policies, and was always candid, sympathetic, conciliatory and helpful.

"He had a clear and strong mind, a sound judgment, an unbending integrity, a comprehensive knowledge of our constitution and laws, and a power of laborious application that enabled him to render

valuable and efficient public service. Patriotism, honor and loyalty to his friends were his eminent characteristics. He was a strong partisan, but there was a kindliness about him that turned aside all feelings of ill will or animosity. He was sociable and companionable in the intercourse of life, and in his hours of recreation in Washington he was frequently the center of a group of devoted and admiring friends, who were attracted to him by those qualities of mind and heart which in earlier days won him recognition among the people of his native state, which he represented so faithfully and efficiently in the senate of the United States from 1911 to 1917."

Senator O'Gorman's reference to his partisanship and "the kindliness which turned aside all feelings of ill will or animosity" suggests the fact that he was personally popular with the most partisan Republicans of the senate. It would have been difficult to have found two more intense partisans than Kern, and Senator Gallenger of New Hampshire, who was the Republican leader, but nothing ever occurred to mar their cordial intercourse.

His self-effacement, his innate modesty, his repugnance to the pose, the fact that his name is not attached to any of the most important legislative measures of the administration, and that for the sake of facilitating the advancement of the program he consumed no time in speeches, may combine to rob him of the credit for the part he played in the general

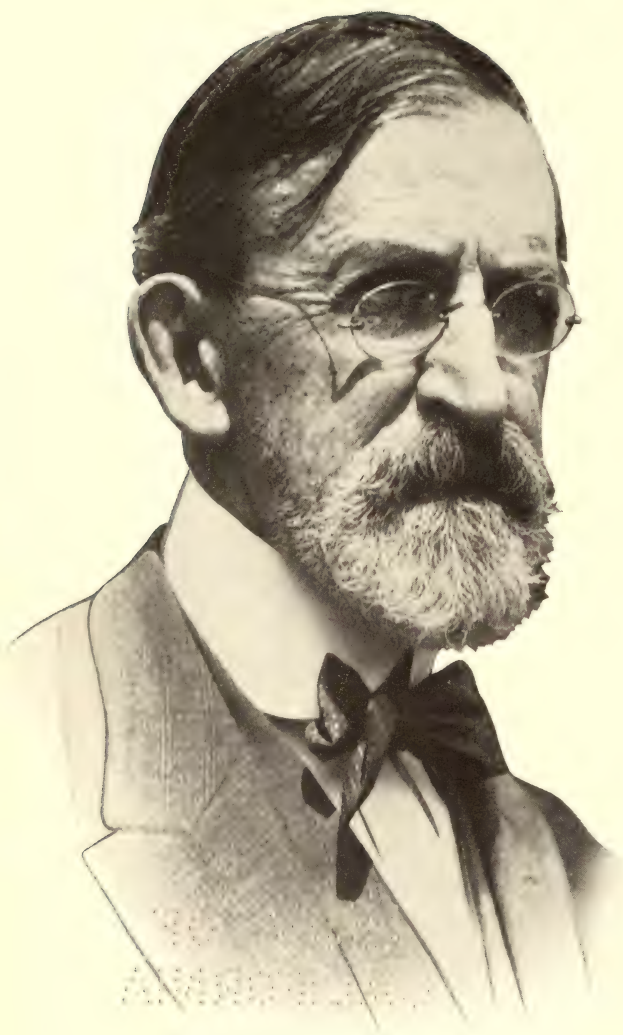
history of the four eventful years, but from the president and his cabinet down through the members of the congress there will never be any other estimate upon his leadership than that it was splendidly efficient.

The relations between Senator Kern and Senator Willard Saulsbury of Delaware, president pro tempore of the senate, were affectionate, and the latter's estimate of Kern is of special interest:

"I shall never think of Senator Kern except with the affection implied in the nickname I gave him soon after we became acquainted, 'Uncle John.' We sat at the same table for hours each day practically from April until October, 1913, while the Democrats were preparing with great labor the Underwood-Simmons tariff bill. It was the first time for many years that great responsibilities had been placed upon our party organization. Senator Kern was unanimously chosen the Democratic leader of the senate after serving in that body for only two years. In his position as Democratic leader and chairman of the caucus he displayed great ability and tact in handling a majority of senators composed of men whose opinions in some cases differed widely. Every one respected him and many of us loved him. We felt when he left the senate that the party to which he belonged and the country had met with an irreparable loss, and his death, coming so soon after his retirement, was felt by many of us as though he had indeed been to each of us an affectionate 'Uncle

John.' Dignified, upright, able, I doubt if any one ever impressed himself upon his colleagues more favorably than he. He was called to the performance of high duties at a very critical time in the history of our country and performed them in accordance with the high traditions of the place he filled. Indiana has produced many statesmen of ability and high ideals, but none greater, as I believe, has she recognized among her honored sons than when 'Uncle John' came to the senate. The kindly, sweet and generous character influenced us all in our personal relations with each other, and when, as he occasionally did, he took a high, strong stand in favor of a given course, he carried us irresistibly to the conclusion desired."

THEY OF
CALIFORNIA



SENATOR KERN IN 1916

Photograph by Leslie Nagley, of *The Indianapolis Times*, taken
at the Indiana Democratic Club

CHAPTER XVIII

THE LAST BATTLE

THE campaign in Indiana in 1916 was a cross between a comedy and a tragedy. A political battle had never before been so miserably mismanaged in the history of the state accustomed for half a century to fierce fights. By the middle of the summer the wiseacres of the east had lightly eliminated the state from their calculations and had busied themselves with plans for re-electing the president without the electoral vote of Indiana. The leaders at national headquarters predicated their pessimism concerning the state on the extensively advertised strength of the Republican state organization, and the unquestioned demoralization of the Democratic party in Marion county (Indianapolis). In the summer of 1915 Senator Kern had shared in this pessimism until he began his journeys out among the people throughout the state, and it was the common observation of veteran campaigners of conservative judgment that they had never in all their experience encountered among Democrats such enthusiasm for the president, or found among Republicans so many who were openly expressing their intention to vote the Democratic ticket. Comparing the state of feeling

among the masses of the people with that prevalent during the campaign of 1904 preceding the overwhelming Republican landslide there was ample justification for the feeling that the state was ripe for a landslide to the Democrats. Where one Democrat declared his intention to vote for Roosevelt in 1904 there were twenty Republicans who were making no secret of their intention to vote for President Wilson in 1916. The sentiment was strong—all it needed was crystallization, organization, direction.

The state leaders, however, were discouraged from the beginning by the attitude of the national organization and the fear of German-American disaffection. The state organization was handicapped throughout by the lack of sufficient funds for ordinary organization purposes—and no hope of aid was held at any time by the national leaders. Throughout the summer months while the Democrats were marking time the Republicans were literally pouring money into Indiana, and this was being used with deadly effect in the work of organization and propaganda. A number of the wealthy Democrats of the state who had formerly contributed to the campaign fund were not in sympathy with the progressive and amelioratory policies of the Wilson administration. And the masses of the party were poor. In Indianapolis there were not among merchants in the shopping district half a dozen Democrats, and among the

manufacturers an even smaller number. It was manifestly impossible for the Democrats to cope unaided with the wealthier Republicans of the state, energetically backed by the Republican national organization. The result was that the Democratic state organization was a shell. And the national organization refusing to recognize the responsibility of its own neglect used the inefficiency of the state organization as an excuse for turning its back on Indiana and pouring three times as much money into Pennsylvania and upper New York, where there was no possibility of winning, as would have been necessary to have placed the electoral vote of Indiana in the Democratic column.

But that was not the only blunder. Never in half a century have as few orators of national repute appeared upon the stump for the Democracy in the state of Hendricks, Voorhees and Kern. Mr. Bryan, who was probably worth ten thousand votes, and who had been the strongest figure on the stump in the state for twenty years, did not appear for a single speech. Ollie James, another prime favorite, was permitted to enter Indiana for two speeches. Two or three cabinet officers spoke once or twice. As far as speakers from the outside was concerned there was little to indicate to the casual observer that the old historic battle field was the scene of another struggle. And all the while the Republicans were pouring their

most effective campaigners into the state. This was not satisfactory to the Indiana leaders, who made their protests against the neglect but without making the slightest impression.

To Senator Kern the most disheartening feature of the disposition to keep the best campaigners out of Indiana was his inability to secure the services of the more notable former leaders of the Progressive party, who were supporting the Democracy elsewhere. Late in the summer he had made an effort to impress upon Vance McCormick, the national chairman, the vital necessity of thus making an appeal on the strength of the progressive record of President Wilson to the erstwhile progressives. He had shown him that the Democratic vote in Indiana in 1912, when the state was carried by Wilson, was almost 100,000 short of the vote cast for Bryan in 1908, thus indicating that the majority of these had gone into the Progressive party. And he made it clear that the only hope of winning was to get these back and that it could only be done by fighting for them. At that time he exacted the promise that Francis J. Heney, Bainbridge Colby and other progressive orators would be sent into the progressive districts of the state, but the promise was not kept. To make it worse they were dated, advertised, and then withdrawn at the eleventh hour. Whatever may have been the reason the plain truth is that had the na-

tional organization deliberately designed to turn Indiana over to the Republicans, it could not have proceeded with more effectiveness than it did.

To make matters all the worse the session of congress had been prolonged into early September and the close found Senator Kern in a state of physical exhaustion and under the necessity of taking a brief rest before entering the campaign. He returned to Indiana after a short time at Kerncliffe on the day that Charles E. Hughes spoke in Indianapolis. At the hour the Republican presidential nominee was speaking in Tomlinson Hall, Senator Kern sat before an open grate at his home and discussed the possibilities of his last battle with the realization that it would require his utmost exertions. He was not unmindful of the fact that the opposition to his re-election was not to be confined to those enlisted under the Republican banner, but that he was to face a special fight upon himself. Among a certain class of politicians he had never been popular, and some of these were openly going about abusing him and talking combinations against him. The activities of these men were regularly reported to him, but owing to their insignificance he attached but little importance to their work. But there was another element of opposition the strength of which he recognized. This was composed of the so-called "respectable" men of the business world who distrusted him because of his pro-

gressive, humanitarian views of social justice, and hated him because of the fights he had made repeatedly for the working classes. The organization exposed in its perfidy by the Mulhall disclosures had its ramifications into Indianapolis especially, but throughout the state as well. These men were bitter in their opposition. While they were composed for the most part of Republicans, they had their Democratic allies. It was a combination of a bi-partisan nature of the representatives of the idea embodied in the association, created for the purpose of destroying organized labor and influencing legislation by the most sinister methods in favor of special privileges for the few and against remedial legislation for the many. And these men who had disliked him from the time he was in the state senate hated him all the more because of his fight against Lorimer, which was a fight against their system; for his fight against the tyranny of the coal barons of West Virginia, in favor of the Child Labor bill, the Seamen's bill, the Eight-Hour Railroad bill. And all the venom thus engendered they poured forth in denunciations of the senator for having dared appear as the legal representative of the Structural Iron and Steel Workers when on trial in the federal court. As Kern sat before the fire the night that Hughes was speaking to a cold crowd down town, he was far from

underestimating the capacity of these men for harm. They had always been his enemies—and he theirs. They hated his views on social justice and he despised theirs. And he knew that they would leave no stone unturned to encompass his defeat. With the heat of the blazing fireplace beating upon his cheeks the semblance of the glow of health that night he seemed fit for the fight. But it was an illusion of the flames. The next morning it was all too apparent in his haggard features and distressing cough that he was a sick man. And his failure to carry out the plans he had been meditating a long time was due to his physical inability to rise to the occasion.

Confronted by a powerful foe, aside from the Republican party organization, he was compelled to enter the campaign without a personal organization or the funds with which to create one. No politician in the state had such a large personal following among the rank and file, but this was an unorganized and undirected mass.

The one bright feature of his campaign was the quick and eager response of organized labor—a response spontaneous, unsolicited. One afternoon while in his office discussing with a prominent national leader of organized labor the necessity of reaching the coal fields with the story of his work on the West Virginia matter he had just expressed the hope that

Mother Jones might be induced to enter the state when the telephone bell rang.

"This is Mother Jones," said the voice at the other end, "may I see the senator?"

And twenty minutes later the wonderful old woman walked into the room with the announcement:

"When I was imprisoned, threatened with death, and needed a friend and none seemed near you saved my life. Now you are in a fight and I came to report. Send me where you will."

It was in incidents like this that Kern found sufficient compensation for all the abuse that was lavished upon him by men of the type of Kirby of the Manufacturers' Association.

At the state convention of the Federation of Labor this eighty-year-old woman appeared unexpectedly, aroused the delegates to the highest pitch of enthusiasm by her recital of Kern's services to labor and herself, and brought every delegate to his feet with the demand that all who thought it the duty of union labor to fight for the senator's re-election stand up. And this scene was not according to the program planned by a little coterie of enemies.

After this Mother Jones swept through the mining towns and camps of the state, arousing enthusiasm for Kern everywhere she went, and fervently urging her "boys" to put on the armor in his behalf. And

that which she did was done by other representatives of labor of less note.

It was the idea of local campaign managers in the various counties to pack Senator Kern and Senator Taggart into automobiles and hurry them from meeting to meeting for short speeches during the day, closing in at night at the county seat with a great demonstration. The first week disclosed the impossibility of the plan as far as Kern was concerned, and very soon afterward Senator Taggart, a younger man, was forced to notify the managers that he could not stand up under the strain. Entering the campaign with a distressing cough, the first week increased his affliction, and from that time on he was in a hopelessly crippled condition. His physician urged him to retire from the stump, but he persisted, buoyed up by his enthusiasm for the cause, and impelled to do so by the realization that a personal fight was being made upon him. The result was pathetic. Leaving a sick bed he would brave the hardships of travel, the inclemency of the weather, to fill an engagement with the intention of speaking briefly, but the inspiration and enthusiasm of the crowd would lead him on to the full exertion of his strength, and after a day or so he would be forced to return to his bed. Thus through October he passed from the sick room to the stump and back again, all the while growing weaker and sustained alone by his power of will. His

greatest meetings were probably held at Terre Haute and Fort Wayne, in both of which cities he was greeted by great crowds notwithstanding a downpour of rain, and at the former place he spoke in a great tent where men stood for two hours with their feet in water. Notwithstanding the personal fight that was being made upon him by the powerful interests he had antagonized, he refrained in his speeches from special references to his own services and confined himself to laudation of the achievements of the national administration and playful ridicule of Hughes. Even the bitter personal attacks upon him in this, his last battle, failed to embitter him, and his last political addresses were singularly free from vituperation or abuse.

He closed his campaign in the last political speech of his career, after forty-four years upon the stump, at Brookville—and herein hangs a tale illustrative of the sentimental strain that was strong in him. It had been his custom for years to close at the little town of Brookville, and early in the campaign he had promised to continue the policy. The speaking campaign in Indianapolis had been strangely neglected and it was not until the Saturday night before the election that plans had been made for the final appeal of the two senatorial candidates at Tomlinson Hall. It thus became necessary, if Kern were to speak in Indianapolis at all, that he cancel his en-

gement for Brookville, but to the importunities of his friends who urged upon him the importance of the Indianapolis engagement he gave an indignant denial. "Certainly not," he snapped as though some discreditable thing had been proposed, "I have been closing the campaign at Brookville for years, and I don't propose to disappoint those people."

The result was that he did not speak in Indianapolis once during the campaign.

Handicapped by physical weakness, lack of means, want of personal organization, and pursued by a peculiarly venomous opposition which was not political but personal and born of his friendship for organized labor, he struggled through, preserving his cheerfulness and hopefulness to the end, receiving the personal insults of the tribe of Kirby in silence, and only retaliating with kindly references to his opponent. When early in the evening on the day of the election it became apparent that he had been defeated his first act was to congratulate his opponent, a life-long friend, and to pay him a personal compliment through the press.

I saw him the night following the election—a strikingly frail figure, a little sad but not too sad to smile and joke in his accustomed way, greatly disappointed but not so much so as to be embittered. After six years of the most strenuous service, yielding his strength ungrudgingly to the demands of his peo-

ple, and vindicating the confidence of his supporters by attaining as commanding a position in the senate as was ever held by an Indiana senator, he now faced private life with equanimity, poor of purse, broken in health, and nearing three score years and ten.

His deepest concern that night was his failing health, and it was his intention when congress convened for the short session in December to resign the leadership and husband his strength. During the month of November he did not greatly improve and he returned to his post of duty in December in a serious condition.

CHAPTER XIX

THE CLOSING OF A CAREER

THE close of the campaign left Senator Kern in such a state of physical debility that he was fixed in the determination to withdraw from the duties and responsibilities of the leadership of his party in the senate with the view to conserving his health. From this he was dissuaded by party leaders and the opening of the short session of the sixty-fourth congress in December found him at his post as usual. The session promised to be a crowded one. In his message at the opening of the session President Wilson had insisted that the congress proceed to the immediate enactment of the supplementary legislation to the Eight-Hour Railroad bill pushed through in the early autumn to prevent the strike, and there was no certainty that this could be done without a prolonged contest on several points. The congress in response to popular clamor had provided for enormously increased expenditures for the army and navy, and now the problem of raising the revenue correspondingly was demanding attention. This promised to partake of the nature of a party contest as all revenue measures do. The historic importance of the session, however, was not foreshadowed, for

on the December day in 1916 when the gavels fell there was little reason to assume that the nation was rushing toward war.

It is not my purpose to follow Senator Kern in the discharge of his duties as majority leader. These differed in no wise from those of the preceding years. But as the days went by and instead of improving in health he either made no progress toward recovery or seemed to be losing ground, he compromised with his sense of duty to the extent of spending less time in the stuffy senate chamber. In the afternoons when the senate had struck its routine pace he retired more and more frequently to his room at Congress Hall, or to the seclusion of his committee room on the gallery floor. His loss of voice immediately after the campaign, which might have been ascribed to over use, persisted with an ominous suggestion of a recurrence of the trouble which had driven him to Asheville ten years before. This, with his loss of weight and unhealthy color, caused him deep concern, which was not relieved by the necessity imposed by his lack of fortune of returning to his profession at the age of sixty-eight. Greatly weakened, he met all the obligations imposed upon him by his party associates and the administration uncomplainingly and gladly. While the irony of defeat had sunk deep, the life-long chivalry asserted itself in the generous praise

of his successor, and if there was any bitterness in his soul it failed to find expression on his lips. Realizing that his political race was run, he failed to respond to unfriendly comments of his most virulent political enemies. Nothing could have been more perfect than his deportment in defeat.

Early in the session grounds for grave apprehension concerning our relations with Germany developed, and Senator Kern looked upon the probability of war with dread. Aside from the usual horrors of armed conflict, he keenly felt the situation in which the hundreds of thousands of Americans of German descent would find themselves should we be forced into the war by the mingled stubbornness, stupidity and perfidy of Berlin. When on that morning in January the word flashed over the capitol that Vice-President Marshall had received a note from President Wilson informing him of his desire to address the senate, Senator Kern was one of many who was depressed at the possibilities of the message. Contrary to custom, he had not been previously consulted by the president concerning his intentions, and neither had the chairman of the committee on Foreign Relations. The president had kept his own councils and the note to the vice-president but hinted at the general nature of the communication. That morning senators generally were prepared for something

smacking of a preliminary to a war declaration. It was a solemn assemblage of senators that witnessed the entrance of Woodrow Wilson to the chamber, and a breathless audience both on the floor and in the galleries that listened to the remarkable peace plea, couched in the president's characteristically beautiful English, read in a measured beautifully modulated voice. No one was more delighted than Senator Kern. But there was to be no peace, neither in Europe or for America, and as the session drew to a close, with no certainty that the congress would again meet for nine months, and with Germany persisting in her mad course with her submarines, the president again appeared, this time before both branches, with a request for congressional authorization for the arming of our merchant ships in self-defense. This request, made on February 26, did not reach the senate for discussion until March 1st, and the last three days of the session were days of excitement and bitterness born of the indisposition of some few senators to arm the president with the power he asked and in the way he asked it. The debate, which was not, as usually charged a filibuster in the ordinary meaning of the term, in that none of the speeches of the "eleven wilful men" were of great length, was of significant duration to prevent a vote before the expiration of the congress at noon March 4th. Senator Kern, who favored the granting of the

power, did not participate in the discussion, taking the position that the friends of the measure would serve it best by consuming no time in talk.

It was in the midst of this bitter battle, on March 3, that he delivered a brief valedictorian address which was a heart expression on the pain of parting from associations that had become dear to him. This, his last utterance in the senate of which he had been the leader for four years, called forth at least one tribute that he greatly cherished. He said:

"Mr. President, before taking leave of this body, I desire to take a very few moments in which to express partially my deep appreciation of the many kindnesses and courtesies shown me since I have been a member of the senate. It will be only a partial expression, for there are no words in which I can tell you fully of that which is in my mind and heart.

"I have no thought, sir, that my leavetaking is a matter of any great moment either to the country or the senate, for senators have come and gone since the foundation of the government, and the republic has survived the loss of the greatest and the best, but I feel that it may not be deemed inappropriate for me before leaving to try to tell you, not how greatly you will miss me, but rather how I will miss the association and companionship which has so enriched my life during the last six years.

"Mr. President, it will be with a sense of relief that I lay aside the burdens and responsibilities incident to the duties of a senator. My work here may

not have been very effective, but for the last four years it has been hard, continuous and very earnest work, taxing heavily at times my health and strength, and I shall lay my armor by in happy anticipation of rest and the enjoyment of the delights of home life.

"My party associates here have twice conferred upon me the highest honor in their power to bestow and have given me generous and constant proofs of their hearty good will, and I can look back over the last four years and through the heated debates and exciting contests without being able to call to mind a single word or act on the part of any Republican senator indicating the slightest ill will.

"So, Mr. President, my chief, if not my only regret, in leaving this distinguished company is because it involves a separation from friends who have grown very dear to me. These friends, thank God, are on both sides of the center aisle; and the memory of these friendships will cheer and comfort me during the remaining years of my life.

"Mr. President, every man who engages in political or other contests hopes for success, and defeat under any circumstances is usually attended by feelings of disappointment if not humiliation; but the man who is not prepared to accept defeat with apparent cheerfulness and in a manly way would do well to avoid the arenas of political conflict.

"In my case the sting of defeat in the late election was greatly mitigated by the fact that my successful opponent is my neighbor, and more than a third of a century has been my warm personal friend; so that my pride in his promotion largely compensates for

the natural regret at my own defeat. I stated after the election and repeat it in this presence, that if I had been permitted or required to chose a Republican successor I would, without hesitation, have named the Hon. Harry S. New. He is a splendid gentleman, a high-minded, patriotic American citizen who will wear the robes of office with modesty and dignity. It is a matter of very great satisfaction to me to know that the splendid commonwealth of Indiana will be represented by two of her native sons, who, I am sure, will serve their state and country with honor and distinction.

"In conclusion permit me to repeat that I shall leave here happy that I shall be free from burdens often onerous and oppressive, rich in the friendship of my fellow senators, which I shall always cherish as among my dearest possessions, sorrowing only because the companionships which have given me so much delight and so many hours of happiness must be severed.

"May God bless you, every one."

Because of the sincerity with which he spoke, and the personal affection felt for him by the majority of senators of both parties he struck a chord which responded instantly when Senator Henry Cabot Lodge of Massachusetts rose on the Republican side of the center aisle. Nothing could have given greater pleasure to Senator Kern. While differing widely on most public questions of a political nature, the Massachusetts senator being a conservative Republi-

can and Kern a radical Democrat, there was much in the character and career of the brilliant historian, orator and statesman that made a strong appeal to the Indiana senator. Aside from a personal fondness for the Republican leader, a profound admiration for his gifts, the career of Lodge in its continuity and security appealed to Kern as the ideal one for a public man. It was precisely the career he would have liked. This, a little side-light on Kern's real nature: in the summer of 1915, after reading the last page of Lodge's "Early Memories," and expressing the hope that the author would continue his recollections through his congressional career, he laid the book down with the comment:

"I know of no man in public life whose career I envy more than that of Lodge."

Senator Lodge said:

"Mr. President, among the trials, the cares, the labors, and sometimes the bitterness that public life brings there are rewards. They are neither so many nor so delightful as the outside world may suppose, but there are some very real rewards. One of them, the chiefest, perhaps, is to be found in the friendships and associations which men closely associated together as we are in this chamber are certain to form, but like most happinesses and rewards in this world, they have their inevitable penalty connected with them. The penalty comes in the severance of the friendships, by the partings that must occur.

These partings come to us here every two years. They bring sorrow, not the 'sweet sorrow' of Shakespeare's immortal lovers, but a very real sorrow which grows more serious and more grim as the years pass by and age advances.

"It is with a feeling of great sorrow that I—and I am sure that I express the sentiments of all other senators—find myself compelled to part with the senator from Indiana. He has been the official leader of his party during four years, a position which has put him in the front of conflict. I can only say that he has borne himself with fairness, with courtesy, with unvarying good temper to those opposed to him, and, Mr. President, wholly apart from that, I am sure that the feeling I am about to express is shared by all. We are losing a friend. He has been to me not only a very valued friend, but a very good friend, and it is sad for me to think that he is about to withdraw from the interests and activities we have so long shared together. His kindness, his good temper, and the generosity he has just shown in his cordial words with regard to his successor have endeared him to us all. It is hard to say 'good bye,' and I will not say it, but I will say that he goes back to private life carrying with him the affectionate regard of all those who have been associated with him here, quite as much of those who sit on this side of the aisle as of those who sit on the other side. He carries with him every good wish that we can give for his health, his happiness, and his peace of mind in the years to come."

As soon as Senator Lodge resumed his seat Senator Hoke Smith of Georgia, secretary of the interior during the second Cleveland administration, rose on the Democratic side of the chamber.

"Mr. President," he said, "it is not necessary for Democratic senators to tell Senator Kern, the senate and the country how much we esteem him and how much we will miss him.

"Just two years after he came here he was elected by his Democratic associates their leader. Two years later he was again unanimously elected their leader.

"He has with great ability, with marked tact, with perfect fairness, and with uniform courtesy, served them as their leader and served with his associates as senator.

"We all honor him; yes, and he will always have our warmest love."

Meanwhile Senator James E. Watson, the Republican senator from Indiana, who was out of the chamber at the time Senator Kern made his remarks, was notified by one of his colleagues and returned immediately to the chamber and, upon being recognized, spoke on behalf of the citizenship of Indiana, regardless of party affiliations. He said:

"Mr. President, I was out of the chamber when the news was brought to me that my distinguished colleague had uttered an address of farewell to the members of this body, with which he has been so long associated, and I felt that I could not let the oppor-

tunity pass without paying my tribute of respect to him as a man and as a citizen and as a neighbor.

"It is indeed a characteristic of the American people, and a most fortunate one, that in the midst of a great emergency like that which confronts us at this time, and an agitation almost international that seems to be centered here for the moment, we can even temporarily lay it aside to pay a tribute of respect to one who is about to depart from our midst. This shows, Mr. President, that after all, behind all political divisions, we are one in sentiment and one in aspirations, and one in patriotic purpose.

"Of the service of my colleague here I shall not speak, because you are more familiar with that than I am; and I only rise for the purpose of expressing the feeling of the people of Indiana for this distinguished Hoosier who is about to return to the body of her citizenship. As a senator, as reporter of the supreme court, as the candidate of his party twice for the governorship, as the candidate of his party for the vice-presidency, he has ever displayed those characteristics that have endeared him to the people of the state; and as you say farewell to him here, the people of Indiana bid him hail and welcome, because there he will be loved by many and admired by all."

Senator Stone followed with a tribute to Kern's "fine qualities of mind and heart, his manliness, his courtesy, his gentleness, his wisdom," and added that "during my service here there has been no man who has gone out of the senate more beloved or whose

absence will be more sincerely regretted." And Senator Thomas of Colorado referred to the "testimonial of affection and esteem" which had been drawn up by the Democratic senators as "an earnest although an entirely inadequate expression of their love and affection."

This testimonial was drawn up in the chamber of Vice-President Marshall on the vice-presidential stationery. This paper, bearing the signatures of fifty-two senators, and drawn up and signed in the midst of the excitement and acrimonies of the fight on the armed ship measure, follows:

THE VICE-PRESIDENT'S CHAMBER

WASHINGTON

March 3, 1917.

"We hereby desire to express to our good friend and Democratic colleague from Indiana,

Hon. John W. Kern,

our appreciation of his uniform courtesy, fairness and consideration for each and all of us during the whole time he has filled the position of leader of the Democratic majority in the senate and the affectionate regard we hold him, as well as our admiration for his ability, kindness and attainments."

On the same day his personal friend, Vice-President Marshall, sent Senator Kern a personal note which was all the more appreciated because of the genuineness of the friendship behind it:

THE VICE-PRESIDENT'S CHAMBER

WASHINGTON

3rd March, 1917.

"DEAR JOHN KERN: It is not as lawyer, statesman, senate leader that we say farewell. That were easy. But to say it as friend to friend, that is hard. May we say hail again to you often.

"THOS. R. MARSHALL."

These tributes of affection and respect were all the more remarkable because of the conditions under which they were paid. The capitol was in a state of considerable excitement because of the bitterness of the fight being waged over the bill granting the president power to arm our merchant ships. The country was in ferment over the measure and little else was thought of in the senate. Many, indeed the great majority of senators, had taken their departure in peaceful days without comment from their colleagues from the floor. The exception in the case of Kern was due not only to the important part he had played during four years of remarkable legislative activity, and the even-tempered and conscientious manner in which he had met the onerous duties of leadership, but quite as much to personal qualities which had, through life, endeared him to those who knew him best. He was deeply moved by these impressive manifestations of regard, and particularly pleased with the generous and kindly attitude of the

men he had politically opposed. This was accentuated a few days later by a personal letter from Senator Lodge saying that "in the midst of the excitement of that closing day I felt very strongly how unfinished and imperfect all that I said in regard to your leaving the senate necessarily was," and reiterating his expression of regret.

Thus after forty-seven years of constant political activity, and many years of public service, Senator Kern passed to private life rarely honored by his colleagues in the senate, respected by his political opponents, regretted by the president and his cabinet, and trusted by the dominate political party of the nation of which he had been a potential leader in victory and defeat.

CHAPTER XX

THE REAL KERN: A COMPOSITE PORTRAIT

I

TO the great majority who knew Senator Kern as he appeared in court, in social circles, in the free and easy environment of convention and campaign, his geniality created the impression that he always preferred company to solitude. To the comparative few who knew him in the routine intercourse of daily contact he was exactly the opposite—one of the most reticent of men, given to the keeping of his own councils. Few men have disclosed their mental processes to a less degree. Throughout the greater portion of his life, when confronted with a problem, personal, political, or professional, he retired within himself and in solitude worked it out. At one period of his life when called upon to reach a decision on any matter of moment it was his practice to shut himself in a room alone and for hours debate the pros and cons over a game of solitaire. As his problems multiplied in numbers and grew in importance after his election to the senate this reticence intensified, and his tendency to withdraw within himself became more pronounced. At times when he was grappling with one of his numerous

problems he would relax into sociability in moments of his own choosing, but he was passionately intolerant of intrusion at other times. He would often lock himself up in his committee room at the capitol, but more frequently he would hide himself in his private room in the Senate Office building, which was not connected with his public offices and inaccessible to the uninitiated by telephone. He alone carried the key and even those occupying the most confidential relations with him dared not intrude upon him there. Here he would sometimes shut himself in for hours at a time.

In this connection it is proper to emphasize a mental trait with which he was probably not popularly credited—an extraordinary power of concentration. Engaged in working out a problem he was able to bring all his mental powers to bear upon just that, and put all else beyond his consciousness. At such times he was utterly oblivious to anything that might be transpiring about him, and nothing could divert him.

It was not his habit to rush speedily to conclusions. He viewed the problem, always a political one after he entered the senate, from every possible angle. He weighed all reasons, for and against, with scrupulous care, brushing aside all prejudices, and coldly analyzing all possibilities. And he seldom acted at once on his first conclusion. Time and again he would return

to this debate within his own mind, in the meanwhile guarding his mental processes from all others.

This called for another trait which he possessed to an infinite degree—an untiring patience. Others might act on prejudice or impulse—he never did. And while others were often confusing the issue he was seeking the solution. And this quality was quite as prominent where his own personal interests were involved. Nothing could startle him into inconsidered action. He took his time. He was in the habit of permitting his political enemies to exhaust their ammunition while he, unmoved, apparently indifferent, almost oblivious to the attack, withheld his fire. And very often the result was that he did not think it worth while to fire. Frequently he struck, when forced to fight, with such subtlety that the wounded adversary did not know whence the blow had come. He could hear of these attacks with scarcely any show of curiosity, and almost invariably without comment, unless it be in the nature of a witticism. He first gauged his foe and planned his battle accordingly—aiming unerringly at the vulnerable heel.

There was something almost uncanny in his ability to ignore an attack and appear to be in ignorance of an affront.

II

Throughout his life Senator Kern was a voluminous letter-writer and notwithstanding the extent of

his correspondence he stubbornly refused to resort to such labor-saving devices as stenography until toward the close of his life when overwhelmed with the multiplicity of duties. It was his life-long habit to reply to every letter he received, no matter how trivial its nature, with pen and ink. With him letter writing was not a lost art and he liked to write when he had the time.

There was an art to a Kern letter. He knew how, better than most men of his generation, to put personality, individuality, atmosphere into a note. No one ever put more tenderness into a letter of sympathy, more jollity into one of congratulation, more comradry into a letter to a friend or occasionally more biting sarcasm or sting into one to an enemy. Enveloped in tobacco smoke, he would write slowly by the hour, with infinite patience, painstaking in his phrasing, and his chirography was as clear, individual and beautiful as that of James Whitcomb Riley. To the vast majority of letters that reached him in connection with the routine business of the senate he did not personally reply for that would have been an impossibility, but letters of a fault-finding nature were by his direction always called to his attention. In some cases where the motive was apparent he made no reply, but in cases where the writer was laboring under a misapprehension, or honestly differed in his views, he would write at

length with pen and ink, setting his correspondent right. Nor did it make any difference whether the correspondent was known to him personally or by reputation or not, if he was a constituent he went upon the theory that he was entitled to a response. These letters almost invariably brought apologetic replies, and many warm friends and supporters were made from among strangers who were thus impressed with the honesty of his own views and his genuine desire for the respect and good will of his fellow men.

His method of preparing such speeches as were formally prepared was also unique. Except for especially important occasions it was not his custom to write political speeches or special occasion addresses. He would arrange the headlines in his mind and nothing more.

Unlike most public men he did not dictate the speeches he prepared, but he would shut himself up in his room with a supply of cigars, a rough scratch pad and several sharpened pencils and write them slowly and carefully in the same beautiful chirography which gave such character to his letters. Even in the longest and most important of these there was scarcely any eliminations or additions—the copy was clean. They might have been copied rather than created, judging from the absence of erasures or emendations.

III

There was a deep undercurrent of religious reverence in Senator Kern which did not flout itself upon the surface. Reference has been made to his conversion at a revival meeting during his boyhood when for a time he became ardent in his devotion to religious duties, and while this phase passed, he retained through life a profound reverence for sacred things. During the greater portion of his life, while retaining his membership with the Presbyterian church, he was not much given to church attendance. This was not due to any compromise with his faith. He was not interested in dogma or creed. He cared little for the outer manifestations of the spirit of worship. He seldom quoted from the Bible in his speeches and had a horror of the politician who attempts to capitalize his religion. The thought of the life beyond was to him too solemn for conversational purposes. He never or seldom discussed it. But he never permitted himself to doubt it. His veneration for the cloth asserted itself less in tributes to the dignity of the clergy than in his occasional excoriations of members of the clergy who lowered their dignity and compromised their religion by lending themselves to the support of inhumanity. For the minister from Lawrence, Massachusetts, who appeared for the mill owners at the strike hearings in Wash-

ington to gravely assure the committee that there was a good moral effect in throwing children of twelve and thirteen into factories to labor for a pittance while paying the mill owners for the cold water that they drank rather than permit them to play "in the streets" in the sunshine he had no words with which to express his contempt. The only letter protesting against the passage of the child labor law that he cared to notice was from a minister of the cotton mill section—and it blazed with indignant protest against—not the protest, but the source of it.

He had the average man's appreciation of the occasional value of an explicative, but he never lightly played with the name of his Creator. And he had a quiet contempt for the man who did.

No man ever put more of the genuine spirit of christianity into his political philosophy. He loved his fellow men. And throughout his life he particularly concerned himself with the alleviation of suffering whenever possible, and the amelioration of the condition of the poor. Because of that quality he was sometimes looked upon as not quite "respectable" by some more prone to pose in prayer in the market places. For these, too, he had a profound contempt.

It was in his attitude toward his fellow men that he disclosed the profundity of his religious convictions. He had faith—it followed him from the cradle to the grave.

I have before me a letter by Kern to his sister, Sarah, on the death of her little boy, which so perfectly mirrors the man and his religious views:

“KOKOMO, January 4, 1883.

“DEAR SISTER—Father’s letter, containing the sad news of the death of your little Frank was received to-day, and I hasten to write you. Our hearts are full of loving sympathy for you in this terrible affliction and we would like to be able to be with you to mingle our tears with yours, and try to say something to break the force of the overpowering sorrow which has come so heavily upon you. The brave, sturdy little fellow. We imagined him in perfect health, rollicking about your fireside enjoying the holiday season—the pride and joy of all of you. And to hear of his death. It startled and shocked us and saddened our household almost as much as though it had been our child, for we had all become so attached to him during our long stay with you. While death is terrible, and while great heart-breaking grief always follows, yet there are other matters to be considered in the case of the death of children especially which ought to go a long way in the direction of comforting the heart.

“He is safe. The possibilities of evil, which go along with all boys and which increase as they grow older, are no more. There is now no danger for little Frank. His footsteps need not now be guarded—there need be no anxiety in the mother’s heart for the future of her boy. His future is not only secure, but it is a future resplendent with glory. Had he lived

a long, useful life, he could never have attained that happiness which is now and always will be his.

"I was thinking to-day of the comfort there is in afflictions like this in the religion of the Bible. Without it what gloom and utter hopelessness. With it the future is full of good cheer and joyous anticipations. Accepting it as true—and let no doubt ever obtrude itself—then must we not believe that our good, pure angel mother who has been waiting over there so long welcomed little Frank with exceeding great joy as the representative of her own children whom she left so long ago and toward whom her heart went in such tender solicitude?

"My dear sister, your little boy is safe. He was the first of our family to be welcomed by her whose memory we treasure so fondly. From this on there will be more frequent additions to the family in the summerland of happiness—one by one we will be summoned there, until, ere long, the family circle will be completed, and every sorrow and pang of grief will be forgotten in the perfect happiness of heaven. Let not this picture be marred. We must all see to it that it is not. We must. I feel that we will all gather together over there, parents, children, grandchildren, and together enjoy forever the glories of the land of love.

"Let not your heart be troubled. There can be no more sorrow for the little boy. No ill can ere betide him now. Trust in God who doeth all things well. Let His will be done. God bless and comfort you.

"Your loving brother,
"JOHN."

IV

In personal appearance Senator Kern was always slender and never very robust, and in his younger days this was the more noticeable because of his custom of affecting the Prince Albert coat of the period and the high silk hat. Soon after leaving Ann Arbor he permitted his beard to grow to a considerable length and as the political "speaker with the long black beard" he was known through the length and breadth of the state for many years. His height, slender form, black beard, and keen, penetrating dark eyes, an inheritance from his mother, made him in his youth an impressive figure. In later years he abandoned the Prince Albert for a business man's sack suit, and seldom wore a silk hat except on state occasions. His beard, now gray, was cropped short and little more than covered his chin, but the memory of the flowing beard persisted in the minds of the cartoonists and curbstome wits, and constant reference, which was offensive to him, was made to his beard which differed little from that of Harrison or Fairbanks and was a very modest affair compared to that of Hughes. He never indicated, however, that he cared for the strained witticisms about his beard, and when an acquaintance, presuming upon his friendship, wrote him and suggested that he part with it after his election to the senate he merely wrote

that "the beard has been attached to me so long it would be an act of base ingratitude to desert it now." His eyes, always his finest feature, never lost their luster or fire. He was always perfectly groomed without being noticeably so.

V

In some quarters he had the reputation of being cold and unappreciative, but this was due to his temperamental inability to gush, and he had more of a tendency among men to conceal rather than reveal his affections. No senator was ever served by assistants with greater zeal, fidelity or personal devotion, and yet with one or two exceptions he never by word of mouth in the course of six years gave any expression of his appreciation; and this reticence, together with an apparent coldness, due to preoccupation, was discouraging to them at first. Then during some recess or absence and when many miles away and without any special occasion for it he would write a letter teeming with affectionate appreciation. Perhaps a little later on he would return, and entering the office as though he had just left it, he would sometimes pass by with a scant nod and a faint smile and without pausing for a chat. He had a great heart, but he did not carry it upon his sleeve.

This was shown in his attitude toward members of his family, to whom he was tenderly devoted—he

seldom mentioned them even among his intimates. That he kept for and to himself.

And yet, as the old viking, Andrew Furseth, who knew, said few men were more prone to take unto themselves the troubles and sorrows of others. After hearing the pathetic story of the suffering of the wives and children of the striking miners of Colorado, and looking upon the pictures of some of the slaughtered innocents, he sat smoking in silence for a long while, with the saddest expression on his face and in his eyes that I have ever seen. And that was not a pose—there was only one there to see, and Kern was scarcely conscious of his presence. Finally coming out of his revery and observing the presence of another, he smiled rather sadly and remarked, "Well, I guess God reigns and the government at Washington still lives."

The Kern of the out-of-doors was not the same man as the Kern of the closet, and popular and likeable as the Kern of the out-of-doors was, the Kern of the closet was infinitely the greater—and the real Kern.

VI

As a companion in moments of relaxation Kern had few equals, and no one appreciated this more than his congressional cronies at Congress Hall Hotel, where he made his home during his service in the senate. When he first went to Washington he

took up his residence here, but in the fall of 1911 he went to the Arlington, near the White House, feeling that this would encourage him to walk more. But the somber dignity and aloofness of that ancient hostelry soon palled upon him, and a longing for the companionship of his friends soon drove him back to Congress Hall.

I am indebted to Henry A. Barnhart for a picture of the Kern of Congress Hall:

“Socially speaking, Senator Kern gave little attention to society functions in the national capital and yet he was a social favorite. He rarely went out except on state occasions, when his leadership in the senate necessitated his presence to add dignity or importance to occasions; where the foremost of the nation’s official leaders assembled in social formality. Seldom, indeed, did he ever attend the theater, while golf, baseball and other like recreations, resorted to by many great men as relaxation for tired minds and bodies, had no attraction for him. Likewise he was not a churchgoer and yet he had a sacred and profound regard for the church and for sincere religious convictions. Although a constant reader, cheap fiction was not a pastime for him and in his reading, like his physical relaxations, he did everything to rest except rest. When he read he worked industriously at it and it was something worth while.

“The senator was socially at his best when in an environment of informality, and gained largest relief from fatigue or responsibilities when surrounded by

a group of congenial friends at Congress Hall Hotel, where he lived during his official career in Washington. His hotel life was methodical. He went to bed at ten o'clock every night and was at the breakfast table at eight in the morning. After supper each evening (or dinner, as fashionable Washington calls it) he would retire to his room and recline in a comfortable chair and there for an hour, under canopy of smoke from a 'home made' cigar, he would read the evening papers. Then he would go down to the lobby of the hotel and there join the 'statesman's circle' and lightly or seriously discuss the issues of the day, swap refreshing anecdotes of laughable incidents on the hustings, in the courts and in politics, and rarely failing to illustrate some feature of the conversation by recounting some misfortune or act of unsophistication of his boyhood career in a village neighborhood near his dear Kokomo, or of his struggles to gain a footing in law or politics. Not only did he love to indulge in personal reminiscences, but even more did he enjoy communing with memories of happy association with brilliant and picturesque men of other days in every county in Indiana. His fund of true-to-life stories was voluminous and ever delightful. He could not 'hold a candle' to Champ Clark in recital of rare and fascinating biography of great men, but in dramatic or quaint description of their striking or peculiar characteristics and in portrayal of the attributes which made them conspicuous as state or national figures he was a delight extraordinary.

"Also in friendly repartee and ready wit he was a great favorite. Speaking of his passive regard for the theater, the wife of a well-known Indiana congressman one evening approached her husband and the senator, as they were indulging in their daily visit, and inquired of the former if she should order tickets for an evening with the drama, then on at a Washington playhouse. When advised to do so she invited the senator to accompany them. 'Is it a good laugh?' he inquired. 'No,' she said, 'but next week Montgomery and Ward (slip of the tongue for Montgomery and Stone) are to be here in the Red Mill and that will be a laugh for you.' 'Delightful,' the senator replied, 'when will Sears and Roebuck be here?'

"One evening the lone Socialist of the house was regaling a group, of which Senator Kern was one, with an impassioned screed against whatever was and reached a climax in the vociferous explosion, 'My God, Senator, has reason been entirely dethroned?' 'I guess it has,' was the senator's meek and pacific reply.

"At another time the senator and one of his Democratic congressional associates had been out to address a mass meeting and the congressman spoke first and used almost an hour of the hour and a half allotted to the two. When they returned to the hotel several gentlemen who had accompanied them gathered about them and one said, 'Congressman, better have a chair, you have made a very vigorous speech and are doubtless tired.' 'No, thank you,' replied the

congressman, 'I do not care to sit down.' 'I noticed that when you were speaking,' was Kern's pat and mirth-provoking injection.

"Two middle-aged Indiana congressmen always occupied connecting bachelor apartments when their families were not with them, and one was telling the senator how the other seemed to be growing old and childish. 'Why, he sleeps with his watch under his pillow,' the solon said, 'to help him wake up in the morning and when I go in and call to him and tell him it is time to look at his watch he rears up like a wild horse and acts like one.' 'Probably frightened, in his half-awake condition,' said the senator, 'with apprehension that you are some constituent about to ask him a direct question as to where he stands on free garden seed.'

"But the real milk of human kindness in Senator Kern's life was not touchingly revealed in his tireless devotion to the needy—to the underdog in the struggle for existence—and his patience with these was none the less marked than with the most influential in the country. And therefore what little social life he enjoyed was constantly invaded by innumerable callers with a mission of self help, to be relieved by the senator, and he would leave the social circle, leave his dinner table, and leave the helpful comfort of his bed when in ill health to see them, not only once, but again and again.

"Indeed, none ever came to him for an audience and for hope in vain. Sometimes he would go to his room immediately after his supper and take one of

his congenial friends with him to get much-needed freedom from official cares and to rest through an informal chat. Once on such occasion, the writer saw him take down the telephone receiver and leave it off the hook, explaining that he did it that the hotel telephone operator could not ring him a call down into the lobby to give audience to some one who wanted official assistance. The receiver had been off the hook but a short time when the senator put it back, saying, 'Possibly some poor mortal might want to see me on a matter in which prompt action would mean happiness to him and delay would cause him despair, and I'd rather be harassed and nerve-worn by ninety-nine undeserving than to disappoint one in actual need of help.' So whether it was some dignified message bearer from the administration suggesting congressional action or some earnest representative of labor with a plea for legislative justice, or some agent of business interests about to be affected by revenue taxes, or some governmental clerk 'in bad' with his chief, or some *Oliver Twist* in politics shoving up his plate for more, or some poor old woman with no family and few friends begging that the wolf scratching at the door of her abode of squalor be driven away by official interference, all were alike patiently heard and so kindly treated that they went away with a lump of sugar in the mouth and a rising tide of hope eternal in the heart.

"Therefore Senator Kern's social life while in congress consisted in evening indulgence in conversational round tables with friends, who talked both business and pleasure, frequently interrupted by re-

quests of never-ending procession of favor hunters for official influence in their behalf. He disliked so-called caste and blue-blood breeding and society shams of whatsoever kind, preferring the companionship of men and women of strength of character which lifted them above the frivolous, the irresponsible and the pretentious.

"And so his social life was really a busy and a cheering life, and while in no sense a society man, socially he was the noble Roman par excellent."

VII

No one is so well qualified to tell the story of John Kern, the campaigner and man, as members of the newspaper fraternity who were assigned to "cover" him on many a tour, and called regularly at his office for many years. There was something in the temperament of the average newspaper man that appealed to him, and for practically all the reporters and correspondents who came into contact with him he formed personal friendship that was very real. This feeling was almost invariably reciprocated. The fact that many of these represented politically hostile papers made no difference with him. He was broad enough to understand.

Among the gentlemen of the press peculiarly qualified to speak, not only because of extensive experience with him, but because of the personal friendship that existed between him and them, are Louis Ludlow, the Washington correspondent, for many



FROM KIN HUBBARD'S SKETCHES
OF HIS TOUR WITH KERN IN
1904—INDIANAPOLIS NEWS

years representative of *The Indianapolis Sentinel* and *The Indianapolis Star*; W. H. Blodgett, the veteran political writer of *The Indianapolis News*, and Kin Hubbard, the cartoonist and creator of "Abe Martin," who frequently accompanied Kern upon his tours sketching the crowds, and whose work was a delight to the senator. These men knew the Kern of the campaign more intimately than the politicians

for he unburdened himself to them with greater freedom and his confidence was never betrayed.

VIII

Among the press correspondents with whom Senator Kern was associated for many years none were more intimately identified with him than Louis Ludlow, the Washington correspondent, for many years the representative at the national capitol of *The Indianapolis Sentinel* and *The Indianapolis Star*. I am indebted to Mr. Ludlow for the following reminiscences:

"The writer of this article campaigned with John W. Kern for five weeks in 1910 when he was contesting with Mr. Beveridge for the senatorial toga. We shared together the exhilarating novelties and disappointing hardships, the bitter and the sweet, of that five weeks' strenuous tour. We rode together in the same rickety day-coaches and stuffy interurban cars, bunked at the same hotel and rooming houses, participated in the same miseries and inconvenience of travel inflicted upon us by a campaign schedule that knew neither rhyme or reason, and whatever social recognitions came his way he very considerably insisted that I should share. He treated me in every respect as a comrade, although the paper I was writing for at the time was politically hostile to him and was giving him an editorial wallop every day.

"This was the longest period of intensive campaigning I ever had with Mr. Kern, and it gave me

a clearer insight into his human trait and interesting mental processes, as well as his breadth of vision and nobility of character, than I ever had before; but compared with my long association with him, he as a leader of his party in state and nation and I as a newspaper writer, this five weeks' tour was but a brief span. I had long before and on many occasions campaigned with Mr. Kern up and down Indiana, criss-cross and in every other way, and his office in the Stevenson, afterward the State Life building, was one of the stations on my daily beat at Indianapolis. I would no more have thought of letting a day pass without calling on Mr. Kern at least once than I would of going without my breakfast. In fact, as a zealous news gatherer I thought infinitely more of having my daily (often twice-daily) talk with Mr. Kern than of any mere culinary diversion.

"Our acquaintance had extended over a rounded period of an even quarter of a century when this good man was called to his reward. When, as a green country boy from the backwoods with hayseed—lots of it—in my hair, I went to Indianapolis in 1892 to get a job on a newspaper, Mr. Kern took a friendly interest in me. Perhaps he thought I needed some attention; at any rate from that time to the hour of his death he was a true and loyal friend. He was even then a leader at the bar, and with the passing of Thomas A. Hendricks he easily held first rank as the most popular Democrat in Indiana. His office on North Pennsylvania street, Indianapolis, was a mecca for Democrats from every nook and corner of the state. I remember him as a tall, slender distin-

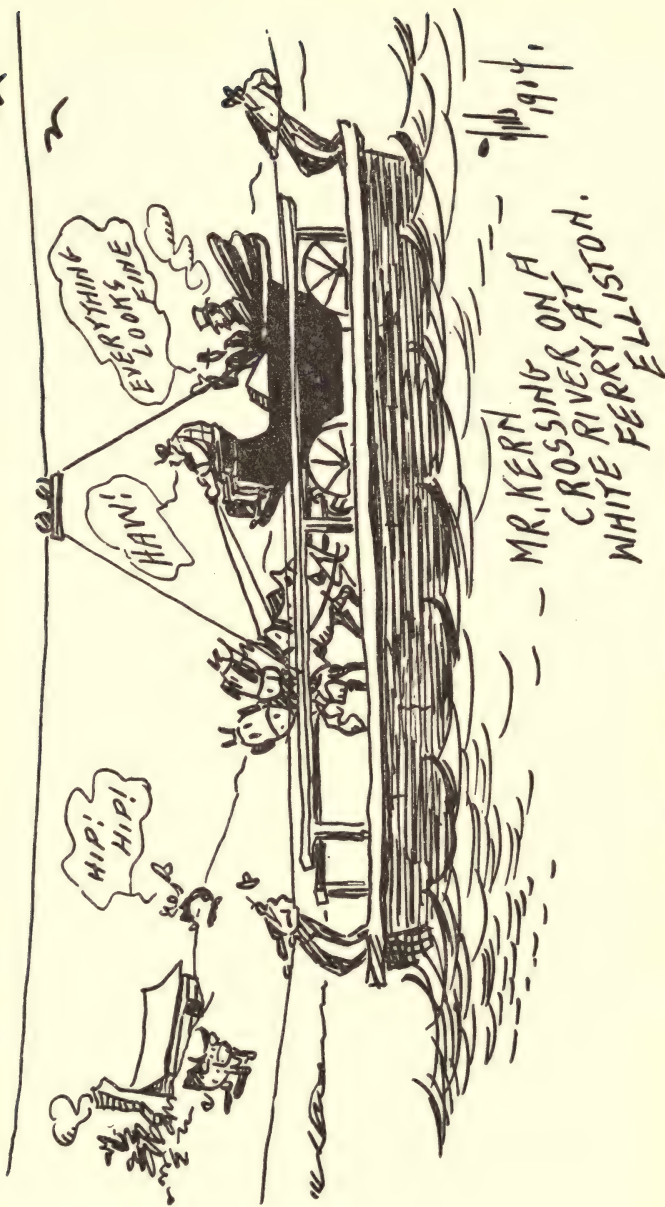
guished-looking man with jet black whiskers, worn much longer than the style of beard he affected in later years.

"About that time the Indianapolis National Bank blew up, precipitating a train of sensations that shook the foundations of the state. Mr. Kern, who was in all the big cases in those days, was appointed attorney for the receiver of the bank. I was assigned by *The Indianapolis Sun* to cover the developments, and, speaking in the vernacular, it certainly was 'some' job for a cub reporter. I think I must have driven Federal Judges Baker and Woods nearly crazy trying to extract some news from the court, for I even called on them at their homes at unseemly hours, and if I had been a sophisticated reporter and they had not possessed a benevolent disposition they probably would have haled me up for contempt of court for some of the irregularities I committed. Mr. Kern was my particular prey. On one occasion, after I had had the boots scooped off me by a virile opposition, I went to Mr. Kern, determined that henceforth not the slightest atom of news about that bank failure should escape me.

" 'There isn't any news to-day; not a bit in the world,' he told me.

" 'Well,' I said, making my last stand, 'have you heard any rumors?'

"Mr. Kern often told me in after years that, considering all the circumstances, my positiveness and the comical way I spoke, that was the funniest question ever put to him. He never got over it. The last time I called on him for news at his office in the fed-



— MR. KERN ON A
CROSSING OF THE
WHITE FERRY AT
ELLISTON.

eral capitol he looked up from behind a stack of letters and said, quizzically:

“ ‘Any rumors to-day?’

“While Mr. Kern, while not in the public service, enjoyed a large law practice, he had a greater non-paying clientele than any other lawyer I ever knew. He was always giving freely of his time and talent, without money and without price. Sometimes he made charges that were ridiculously nominal, but in cases of poverty and distress he was more likely to make no charges at all, even in cases that involved a great deal of work. If all those whom he helped to get out of difficulties and keep out of trouble, without one cent of recompense, could be compiled it would be a long one. His law practice, to a very extraordinary extent, was made of unrewarded kindnesses to others.

“One day on entering his office I saw lying on a table a shining new quarter. I also saw at a glance that Mr. Kern was very much amused about something. Then he told the story.

“One of his numerous impecunious but devoted admirers had been in difficulties and had come to him for advice on a law point. It was not an easy nut to crack and Mr. Kern spent the greater part of two days looking up the authorities and had given him a decision that fit the case and ended the trouble. The client was fully grateful and asked the amount of his bill.

“Not a cent,” was the reply.

“The client was one of those self-important individuals. He insisted.

"'There is no charge; it's all right. Good luck to you,' protested Mr. Kern.

"'Now I'll tell you, John,' said the benevolent client with the air of one who was conferring a great favor, 'I never get anything without paying for it. Here's a quarter and if you'll stand by me I'll bring you some more business some time.'

"So saying, he laid the twenty-five-cent piece on the table and Mr. Kern was so flabbergasted he let him go without saying another word.

"Mr. Kern's honor shines through all his professional transactions with an illuminating glow. I know an instance where a well-to-do man employed Mr. Kern as attorney in an alienation suit. The man was not altogether to blame; there were extenuating circumstances, but enough guilt to make the outcome exceedingly precarious if the aggrieved party carried out his threat to file suit, to say nothing of the notoriety. Mr. Kern was not one of those lawyers who believed in fostering litigation. In this case, as many others, he advised settlement out of court. His client virtually turned over his fortune to Mr. Kern with authority to affect a settlement on the best terms possible.

"After exercising his wonderful powers of diplomacy and persuasion he (this was in his early days at the bar) returned to his client.

"'What would you say if I told you that I had settled your case for \$10,000?' he asked.

"'I would say it is pretty high, but you have performed a real service for me and I'm glad to get out of it.'

“‘What would you say then if I told you I had settled for \$8,000?’

“‘That would be better; I would indorse that settlement right from the start.’

“‘Then,’ persisted Mr. Kern, ‘what would you say if I told you I had settled for \$5,000.’

“‘I’d be tickled to death.’

“‘Well,’ said Mr. Kern, ‘at the risk of a sudden termination of your earthly career I will tell you that this whole matter has been adjusted and that you are to pay only \$1,000.’

“And then, to top it all off, Mr. Kern charged him a nominal fee, finding his reward mainly in the satisfaction of having got somebody out of trouble.

“Mr. Kern’s sense of humor was exquisite. Whether in the court room or on the hustings the ‘human side’ of things appealed to him with mighty force and often, especially in his younger days, when he was practicing in the courts of Kokomo his quick wit won his cases. On a certain occasion a Kokomo roisterer got into trouble and engaged Mr. Kern to defend him in a justice of the peace court. A hog knows infinitely more about Sunday than that justice knew about law. Mr. Kern saw that the only salvation for his client was to force through an immediate trial. It was after dark when his client was haled into court. The squire adjusted his spectacles in a knowing way and said:

“‘This case will be continued until to-morrow and the defendant will be remanded to the county jail.’

“‘May it please the court,’ said the young attorney, ‘nothing of the kind will be done. We are entitled

to justice speedily and without delay and this trial goes on.'

"'Will the attorney at the bar consent to tell this here court what is his authority for that statement?'

"'Certainly; it is contained right here in the bill of rights.'

"Then Mr. Kern read that part which says that justice shall be speedy and without delay.

"'Would this court presume that it has the power to set aside that fundamental guarantee?' he asked dramatically.

"The court remarked that he guessed his young friend 'knowed what he was talkin' about' and ordered the trial to go on. A jury was impaneled, the trial lasted all night, and at daybreak Mr. Kern's client was cleared. This was one of many stories that Mr. Kern used to tell about justice as she was dispensed at Kokomo in his early manhood.

"Mr. Kern had a way of making use of ridicule as a very effective weapon in a law suit. He could lampoon an adversary out of court and do it in a way that left no sting. A Republican state administration a decade or so ago started a crusade against Thomas Taggart's establishment at French Lick. A constable from the vicinity swooped down and made a raid. This was followed by proceedings brought in Judge Tom Van Buskirk's court at Paoli, looking, as I recall it, toward a revocation of the charter. I was sent down to report the trial for an Indianapolis paper. Mr. Kern was attorney for Mr. Taggart and one of his first acts was to give me an interview, which he wrote in long hand, setting forth an imaginary de-

scription of the raid that had been conducted by the 'one-eyed constable from Stamper Creek township.' It so happened that the valorous constable did have one eye as Mr. Kern, who knew everybody, was aware. The interview made bully copy and it caused that case to be laughed out of court. Thereafter the issues involved were obscured by the one outstanding feature—the 'one-eyed constable from Stamper Creek township.'

"As a campaigner Mr. Kern never indulged in camouflage. He disdained, for instance, to resort to the usual artifices to work up a crowd. If people came to hear him he was glad, but he would not permit any spectacular side shows to drum up audiences. In some places during the memorable campaign of 1910 the crowds that turned out were distressingly small, but those who attended came because they were earnestly seeking to be enlightened and not solely to be entertained. Therefore it could always be said that his speeches rated very high from the standpoint of effectiveness. While he interspersed many stories and jokes throughout his speeches he never did so without pointing a moral and he often rose to the sublime heights of eloquence. He was so sociable, so easily approached, so companionable that he made friends everywhere and riveted them to him with hooks of steel.

"The campaigning was strenuous and Mr. Kern was no longer young in years, but his buoyancy and ability to accommodate himself to situations as they arose enabled him to see the silver lining to every cloud. We had to arise in all hours of the night to

make train schedules. One night, in making the jump from Brownstown to Washington, Indiana, the train was due to arrive at Ewing, which is connected with Brownstown by two streaks of rust, shortly after midnight. It was several hours late, however, and in a frolicsome mood Mr. Kern insisted that we arouse a village restaurateur and have him cook us a breakfast of his favorite kind, consisting of bacon and eggs. This the restaurateur did gladly and sent us on our way rejoicing.

"An interesting contretemps occurred down in a town in the First district. The reception committee slipped a cog and we arrived without attracting attention and made our way to the best hotel in the town, which was none too good. No sooner had we deposited our luggage on the floor than in came the reception committee in a state of breathless agitation. Mr. Kern was beckoned to one side and the startling information was imparted to him that it would never do for him to stop at that hotel and that quarters had been reserved for him at a rooming house down the street. It seemed that there were two hotels in the place, both run by Democrats. Representative Boehne had been there a short time before and had stopped at the crackerjack hotel, and now it was imperatively necessary, in order to preserve the political equilibrium, that Mr. Kern should stop at the place down the street. Being myself under no such restrictions of political expediency I turned in at the best hotel and had a good night's rest. Before I did so I went down the street to see how Mr. Kern was faring. His room was over a billiard hall and the

cracking of the ivories resounded for half a block. If I were made to guess I would say that he did not sleep a wink that night, but he accepted the situation with sweet resignation, just as he did every other situation in life.

"On the interurban car returning to Evansville something happened. The car came to a standstill with a suddenness that caused everybody to pitch forward and then the lights went out. Without was Stygian darkness. It was a darkness that was absolutely black. After what seemed an interminably long time the motorman returned to the car, the conductor and motorman indulged in the usual bell talk preliminary to getting away and the car proceeded.

" 'What did we hit back there?' Mr. Kern asked the motorman. •

" 'We hit a cow,' replied the motorman, none too pleasantly.

"Quick as a flash Mr. Kern said: 'Permit me to congratulate you on being able to tell the gender of the animal on a night like this.'

"The senatorial campaign ended with both of the candidates speaking in their home city, Indianapolis. The Republicans arranged as a grand finale a monster meeting at Tomlinson Hall, preceded by a street parade in which it seemed that half of Marion county participated. On the Democratic side the plan was for a number of ward meetings, to be addressed by the Democratic senatorial candidate. The brilliant genius who made the arrangements staged the last of these meetings, the very closing of the campaign, to take place in a south-side saloon. It

was to be a sort of hand-shaking affair. Mr. Kern was ushered into the room before he recognized the character of the place. He left immediately and that was the only time during the campaign when he showed any manifestations of anger. He expressed in plain terms his opinion of the dunderhead who had made the arrangements.

"As a senator of the United States Mr. Kern at once took high rank in Washington and advanced in position and influence with a swiftness that was amazing. His election to the leadership of the controlling party after he had been a senator only a fraction of his first term was wholly without precedent. Hard, intelligent work, combined with personal popularity, won for him a prestige never before accorded to a first term. He saw through the thin veneer of Washington society and formed an intense dislike for its sham. Aside from White House functions and those of a few senatorial friends, about the only dinners and receptions he attended were those occasionally given by Indianians, and then he sometimes got his dates curiously mixed. An instance that Vice-President Marshall relates occurred one night when Mr. Kern was discovered by the vice-president groping his way through one of the halls of the Willard Hotel. The vice-president hailed him.

" 'Where do you think you are going, John?' he asked.

" 'I am going to your apartment to take dinner with you,' was the reply.

" 'That can't be because I am going out to dinner now.'

" 'But you invited me,' said the senator.

" 'Look at your invitation,' came back the vice-president, who could hardly restrain his mirth.

"Senator Kern did so and a light broke. The invitation was for the next night. They had a good laugh together. On the next night the senator forgot all about the invitation and did not attend. All of which illustrates the fact that when it came to society matters he was not a J. Hamilton Lewis.

"It would be impossible to speak of Senator Kern's successful regime as a leader of the greatest law-making body in the world without paying a high tribute to the personal equation.

"His magnetic and lovable personality held sway in the senate and made him the greatest conciliator among all the leaders that held that position of high responsibility. In ironing out differences and bringing contending elements together he was the master.

"It would be impossible to speak of Senator southern senator once remarked, 'except to say that you can't talk with him two minutes without falling in love with him. He captivates you, suh.'

"Perhaps this explains why Senator Kern, a northern man, never lacked southern support in the senate, although the party leaders almost invariably have been southern men. Nor was there any semblance of the mailed fist in his leadership. He made it a point to cultivate friendly relations with all the senators. They regarded him as a companion and a comrade. He had a joke for every occasion and sometimes a playful senator would perpetrate a joke on the leader.

"I shall never forget an occasion, for instance,

when Senator Kern received a letter from Senator Saulsbury of Delaware, now the president pro tem. of the senate. Senator Kern had been lecturing Democratic senators on the necessity of maintaining a quorum and the evils of absenteeism. Senator Saulsbury had planned a cherished trip to Europe and one fine day, unknown to Senator Kern, he set sail from New York. When the outgoing vessel passed Sandy Hook he sat down and wrote a letter to Senator Kern that bristled with belligerency. He told him he had grown tired of his 'tyrannical rule' of the 'autocratic' senate leader and had decided to 'set himself free.' He bade defiance to the senate 'boss' and dared him to cross the pond and get him. Of course the anger assumed in the letter was all camouflage, as better friends than Senators Kern and Saulsbury never lived. Some months later when Senator Saulsbury returned they had a merry laugh over it. One could as easily imagine the Washington monument bending over to salute the morning sun as to think of a kittenish senator issuing such a challenge for example to Senator Martin, the predecessor and successor of Senator Kern in the senate leadership.

"In my capacity as one of the correspondents at the capitol I naturally was brought into close contact with the leader. Senator Kern was fond of taking long walks and frequently I was with him on these strolls. His high position did not make the slightest modification in his democratic ways. Correspondents could go to him at any hour of the day or night with perfect assurance that they would receive courteous treatment and straightforward answers.

We met on unusual occasions as, for instance, when we stood up as witness at the wedding of two dear friends, now Mr. and Mrs. W. S. Ryan.

"This same Mr. Ryan was the 'Bill' Ryan who was featured in some of Mr. Kern's speeches back in the 1910 campaign. He would challenge the correctness of statistics presented on the stump by the Republican speakers to prove that their administration of affairs had been a success. He would point out that figures are misleading unless one knows how to analyze them.

" 'They remind me of Bill Ryan's watch,' he would say. 'When the hour hand points to eight and the minute hand to three Bill knows it is half past four.'

"The brightest senate page I ever knew bore the euphonious nickname of 'Christopher Columbus.' His real name was Weirisk, but in a moment of facetiousness I bestowed the name of 'Christopher Columbus' upon him for no other reason than that he was born and reared at Columbus, Ohio. Though the name finally came to be abbreviated down to 'Chris' it was as 'Chris' that he was known to scores of correspondents, to whose service he was assigned. He was as keen as a whip and bright as a new dollar, and, withal, had a sense of the dignity of his position and a constant care not to offend any one.

"One afternoon I sent 'Chris' into the senate chamber to ask Senator Kern if I could see him. When the lad returned he was plainly agitated. He hemmed and hawed and made no response that I could understand.

" 'Mr. Ludlow,' he finally said, 'I don't like to tell you what Senator Kern told me.'

"That was interesting.

" 'Why?' I asked.

" 'Because it is not a bit favorable to you.'

" 'Oh, pshaw, Chris,' I insisted, 'I haven't got all afternoon to waste. What did he say?'

" 'Senator Kern told me to tell you to go to the hot place,' answered 'Chris,' who looked as if he would gladly have sacrificed his right arm rather than have delivered that message. Just then the senator came out of the chamber shaking with laughter.

"A little later another page nearly fell over when Senator Kern, on being told that I would like to see him, asked whether I was 'drunk or sober.' Subsequently he made that inquiry so often that the pages, who were my friends, learned to respond instantly, 'Sober, sir.'

"Senator Kern's kind heart made him the prey of impecunious and designing individuals who were always trying to 'touch' him and seldom unsuccessfully.

"One day the senator was called into the marble room by a smooth citizen who said he lived at Elwood, Indiana, and told of meeting the senator there when he was one of the appreciative and applauding auditors. After recalling these pleasant and circumstantial facts he wound up by asking the senator for the loan of the small sum of a dollar, which the senator readily granted, thankful that the request was not for ten dollars, the usual amount.

"The senator then returned to the chamber and

was sitting by the side of his colleague, Senator Shively, when the same man sent in a card to the latter. Senator Shively went into the marble room and when he resumed his seat five minutes later Senator Kern asked:

“ ‘Who was your friend?’ ”

“ ‘He was from Elwood and he just wanted to talk to me about old times. He recalled one occasion when I spoke at Elwood and he was kind enough to say it was a corking good speech.’ ”

“ ‘Honest Injun, Ben,’ how much did he touch you for?’ ”

Senator Shively jumped as if startled.

“ ‘Fifty cents,’ he answered.

“ ‘Well, that shows he thinks I am the better senator. He stung me for a dollar,’ said Kern.

“ ‘No, I think he sized you up as the easier mark,’ came back Shively, and they then adjourned to the cloak room and told the story to a group of senators, who enjoyed it hugely.

“Reminiscences with Senator Kern as the central and radiating figure might be told by the hour, but even reminiscences must come to an end. It so happened that I was the last man in Washington to bid him a final good-bye. He had come from his room at the Congress Hall Hotel and summoned a taxi to take him to the depot. Passing me at the entrance of the hotel he extended his hand and said, brave:

“ ‘Good-bye; I am going down to the sanatorium at Asheville to take a post-graduate course.’ ”

“I was inexpressibly shocked a few days later to

learn that his spirit had winged its flight to the blessed Summerland."

IX

After Mr. Ludlow no newspaper man was thrown into such frequent contact in the discharge of professional duties with Senator Kern as William H. Blodgett, who has been for so many years the political writer of *The Indianapolis News*. In campaign after campaign he has been assigned by his paper to cover the tours of the party leaders, and has reported all the conventions, state and national, for an equal period. He made one of the "Kern party" on practically every important tour that Kern made during the last eighteen years of his career. Mr. Blodgett's reminiscences throw an interesting side light on the character of the senator:

"When John W. Kern answered the final call there passed out of the lives of the newspaper fraternity one with whom they were always bound by a strong chain with links of admiration, respect, honor and friendship. To them it was not the United States senator who died. It was the man whose soul had gone away; and while the newspaper men may remember for a time the public acts of John W. Kern as United States senator, so long as they live they will never forget his personal attributes, and his kind and courteous treatment of them; and the cold grave where he lies can never chill the steadfast, kindly and unfaltering friendship the men and women of

the press bore him—a friendship that can not be calculated.

“It is doubtful if there is a public man between whom and the newspaper fraternity there were so many confidences. He trusted them, and they believed in him, even if they did not at all times agree with his political policies. The political writers were always pleased when they were assigned to ‘cover’ John Kern. He was the best ‘copy’ in the United States, and day or night he was always good for a story. Without journalistic experience himself, he knew just what kind of news the public wanted. He always had his ear to the ground, and many a good story for which the correspondent received a telegram of thanks from his managing editor was really worked out by Mr. Kern. He had no grades or classes among his newspaper friends—the small town reporter looked just as big to him as did the staff man from the metropolitan dailies, and he would go just as far to help the small town reporter as he would to assist the staff ‘star.’ My acquaintance with Senator Kern began long years ago when I was a small town reporter. In a particular town that need not be named a young society man had been arrested, for what no one knew. The arrest was very quietly made by Ed Rathbone, who figured years afterward in Cuban affairs, and Rathbone tried to slip his prisoner out of town, but the local reporters caught them at the railway station. With considerable curtness he refused to talk with the reporters. A man carefully dressed, and with a pleasant smile, standing near by turned to Rathbone:

“‘Ed,’ said he, ‘there is no reason why these boys shouldn’t have this item (that was before ‘items’ became dignified as ‘stories’). ‘It is in their territory and it will be interesting to the readers of their papers, and anyhow it will come out as soon as you get to Indianapolis and these boys will be scooped.’

“‘All right, John, you can tell them,’ replied Rathbone, walking away.

“‘Well, boys,’ as we gathered around him, ‘this is what it is all about’—and sitting on a baggage truck the stranger (I can see him now as plainly as I did then more than thirty years ago) he told us the story.

“‘Who are you, and what part in this affair do you take?’ one of our party asked.

“‘I’m just an innocent bystander. My name is John W. Kern. I am a lawyer up at Kokomo, and I bumped into this thing accidentally.’ Some of the small town reporters clustered about that baggage truck listening to Mr. Kern’s recital of the story of the young man’s arrest in later years became well known in journalistic work, and the friendship for Mr. Kern that began on the railway platform was never broken. Mr. Kern never changed that policy of dealing with newspaper men. The correspondents who campaigned with Mr. Kern were always sure of fair and equal treatment. He played no favorites. When he gave out a story every one got it. Knowing that a careless or indifferent reporter, or a representative of an unfriendly paper could cause him great annoyance, and perhaps deep injury by not truthfully quoting him, or twisting his language to a meaning other than what he intended to say, Mr.

Kern never asked the correspondents with him to submit their dispatches before putting them on the wire. He was willing to trust to their fairness and honor.

“‘Gentlemen,’ he would say at the beginning of the tour, ‘I won’t say anything that I do not wish published, and I know you won’t send anything I don’t say.’ And among the hundreds of correspondents who ‘covered’ Mr. Kern in his long political career not one ever disappointed him. When John W. Kern was the principal figure in the noise and music of the feast the newspaper men with him were never forgotten. Reception committees might try to drag him away, but he would not be dragged.

“‘There will be no show,’ he used to tell the eager committeemen, each striving for the honor of leading him to his carriage or to the speaker’s stand, ‘until the orchestra is ready. ‘I want the newspaper men put where they can see and hear.’ And he would not move until the correspondents with him were provided for. Once he was dragged to a boarding house by the reception committee, who thought it would be a good political stroke to have Mr. Kern take dinner with the boarding house keeper who was off the county ticket. The newspaper men returning from the telegraph office were met at the gate by Mr. Kern.

“‘Boys,’ he whispered, ‘don’t come in here. The grub is ghastly and the board of health has gone fishing. If you must eat in this town go to the hotel.’

“In his campaigns Mr. Kern always prepared a schedule of his own itinerary, and used to fret a great

deal if trains were late or wheeled transportation was not promptly on hand. He was always called in the morning at least an hour before train time, and part of his regular work before breakfast was to see that the baggage of the correspondents was ready to be taken to the station—he would not trust anybody but himself to look after the baggage, and he was always impatient until breakfast was served. At one hotel the waiter was slow because the waiter and cook were one and the same. Mr. Kern's watch was propped against a glass of water on the table. He became nervous and restless and finally shouted to the landlord, who was sweeping out the office:

“‘Pete, I've only got fifteen minutes to make that train—can't you hurry breakfast a little?’

“‘Don't worry, John,’ came back through the dust clouds in the office. ‘You can eat all there is in the house and still have plenty of time for your train.’

“This put Mr. Kern in a good humor, and he made his railroad connection all right.

“On another occasion the party with Mr. Kern had to cross a small river on an old-fashioned ferry. In midstream the rope broke and the craft began floating on the current. Mr. Kern struck up ‘Life on the Ocean Wave’ and the correspondents joined in with him. It was the first time correspondents knew Senator Kern was a singer, and for that matter none of them ever heard him attempt to sing again. Kin Hubbard, who was in the party, drew a cartoon of the float down the river for *The Indianapolis News*, which pleased Mr. Kern greatly and he always declared that the cartoon was Hubbard's masterpiece.

"He had a most wonderful memory for names, faces and incidents, and his speeches were generally punctuated with entertaining stories, a greater part of which he usually located in the vicinity of Kokomo. There was always a story to properly illustrate a point, and if the anecdote related by John W. Kern could be compiled in one volume it would make a book as huge as Webster's Unabridged. And these stories were not of a kind that offended or hurt, and the occasion for their use was always appropriate. He had a way, too, of rebuilding a speech with new words, and sometimes the correspondents who were with him perhaps for weeks and had heard him speak many times would burden the wires with a warmed-over speech, to the distraction of the managing editors and the delight of the copy editors, whose mission is to knock and destroy.

"When Mr. Kern was the nominee for vice-president on the Democratic ticket he was frequently alluded to by Republican papers as 'Alfalfa John.' But there are only a few people who know that Mr. Kern himself was the originator of the term. We landed at the Auditorium Hotel in Chicago direct from Denver and Mr. Kern gave audience to a large number of reporters, and among them several 'sob sisters' (which is the craft name for women journalists). One of these, a piquant little creature with fluffy hair from *The Chicago Tribune*, startled the nominee for vice-president by suddenly asking:

"'Mr. Kern, what is the actual color of your whiskers?'

"'I really don't know,' replied Mr. Kern in all

seriousness, 'I have never seen them, except in a mirror, and you know how deceptive looking glasses are after one has past forty years. Down in Kokomo, Indiana, the boys call them alfalfa.'

"The next morning a splendid word portrait of Mr. Kern appeared in *The Tribune* in which he was portrayed as 'Alfalfa John,' and the name clung to him all through the campaign.

"To write the full story of campaigning with John W. Kern would be to write many pages of political history. Ambitious perhaps he was, but I have known many instances where he smothered his own ambitions to advance the interest of his own political party. He never was called that he did not answer, and he never was asked to go that he failed. I have known him, tired and weary and racked with pain, to crawl from his bed at three o'clock in the morning and ride miles that he might address children at a country school house, who were anxious to hear him. All through his political campaigns, strenuous as some of them were, his kindly disposition, his inexplicable sweetness of manner, was never ruffled. I never knew him to say a cross word, even in his most impatient moments, and the blare of bands and the pomp of political parades he never forgot his home. At Denver, when his nomination for vice-president was assured, when statesmen were trying to grasp his hand, and a platoon of newspaper men were climbing over each other to get a word with him, Mr. Kern turned to me:

" 'Won't you please telegraph the good news to Mrs. Kern,' he said.

“ ‘Certainly, but what shall I say?’

“ ‘I don’t need to tell you how happy I am, or what word to send to my wife—you have a wife at home—just tell my wife what you would say to your wife under the same circumstances.’

“That was John W. Kern, honest, trusting, with faith in his friends, and with the picture of his home ever before him. The newspaper fraternity lost a good friend when Death ushered John W. Kern through the Gates of Life.

“We all must die.

And leave ourselves, no, it matters not where, when Nor how, so we die well; and can that man that does Need lamentation for him.”

X

No picture of Kern would be complete which did not delineate him in his professional character. While actively engaged in political activities from the hour of his admission to the bar until his election to the senate in 1911, he never abandoned the practice of the law, or lost his love for the profession. No one knew him more intimately in this rôle than Leon O. Bailey, now engaged in the practice with former United States Senator Charles A. Towne in New York City, with whom he was associated during the first ten years of his residence in Indianapolis. It will be observed that in the portrait presented in the analysis of Mr. Bailey there is nothing that does

not harmonize in a general way with the pictures we have had of the Man, the Companion, the Campaigner, and the Student:

“‘Was Kern a great lawyer?’ I would not justly record my own knowledge of the man’s mental qualities, or give response to my own judgment, did I not answer this query in the affirmative.

“As a boy he possessed a thirst for knowledge and certainly up to the time of my intimate association with him terminated, was one of the most consistent, energetic and untiring students within my knowledge of men. He was logical, of retentive memory, a voracious reader of good literature, always delving and digging into his law books, with which he was ever surrounded, and thorough to the last word in his analysis of questions submitted for his investigation. It is very easy to see that with his mental habits above mentioned, when combined with the qualities of humanity and personal magnetism for which the world best knew him, Kern was, in the very nature of things, a great lawyer. It was my extreme good fortune, during my twenty-odd years in Indiana, to have enjoyed an intimate acquaintance with such great lawyers as Thomas A. Hendricks (in whose office I was a student for three years), Major Jonathan W. Gordon, Daniel W. Voorhees, David Turpie, Joseph E. McDonald, Conrad Baker, Byron K. Elliott, Addison C. Harris, William A. Ketcham, all judges of the Supreme Courts, and scores of brilliant members of the Indiana bar; and it is in comparison with these men that I rate Kern well up in the list.

He was forceful before a jury, not only because of his eloquence and pleasing personality, but because of the candid and scrupulous manner with which he explained every principle and applied every fact of importance to be taken into consideration. His presentation, always manifestly trustworthy, carried conviction that always follows a logical and consistent development of the truth. Kern never could or did resort to tricks or pretense of any sort, but in every important battle met his enemy in the open and planted his batteries upon the rock foundation of truth and of the legal principles fairly applicable to the facts established. Like Oscar B. Hord, of the great firm of Baker, Hord and Hendricks, he was one of the most adroit cross-examiners at the Indiana bar. His skill in this particular constituted one of his most potent weapons in the court room. One of his rules was: 'We have little to fear from our friends in a lawsuit. The danger usually lies behind the armor mask of falsehood or deception worn by the enemy. If this can be destroyed or penetrated we are safe.' His method of handling an unfriendly or unwilling, timid or refractory witness was an interesting study. In this his quick and accurate judgment of men was of the greatest assistance. A perfect knowledge of his case, the exact line to be developed, and danger points to be avoided, were the first essentials, and absolute self poise the second. He never prejudiced a jury by an attitude of brutality toward an adverse witness. His affability at the beginning was usually rewarded with important admissions, then came the rapid-fire questions, a method com-

monly adopted by him, which in most instances brought confusion and often anger to the witness. Kern's experience lead him to assert that 'a witness that loses his temper loses his influence.' He did not include in this rule those whose resentment was justly aroused by the ill treatment of counsel. Kern regarded this feature of his trial work as a distinct art and almost felt contempt for a lawyer who failed to appreciate its great value or possess the necessary skill for obtaining the best results. So much of interest did he feel in, and real importance attach to, this question that he often spoke of his intention, at some time, of giving his observations to the profession in a suitable book to be entitled 'The Ideal Cross-Examiner.' Master as he was of the subject, it is unfortunate he never found time to put this purpose, which would have been a distinct pleasure to him, into execution.

"I recall a very amusing instance of Kern's cleverness in the cross-examination of witnesses, which I may be excused for relating. It well demonstrates his ability for quickly and accurately taking the measurement of a witness. We were appearing for the defendant in a damage suit for personal injuries. While having reason to know that the claim of the plaintiff was based on fraud, the truth being difficult of establishment, we realized our client's danger. The extent and nature of the plaintiff's injury had been elaborately and with much exaggeration, presented by a bombastic and pretentious doctor, whose use of big words and highly technical scientific terms, with little knowledge on his part as to their meaning,

were poured out in a flood before the jury. The appearance of the witness, nevertheless, was impressive, and his statements, freed from the slightest appearance of doubt, were calculated to convince a jury not only of the speaker's wisdom, but the complete reliability of the conclusions he had reached. We both knew the witness personally and were well aware of his real status among the members of his profession. We not only knew that he was a 'quack,' and to a large extent illiterate despite his bold assurance, but were convinced that he was deliberately attempting to establish the plaintiff's claim by falsehood. How to best show the character of this man to the jury was Kern's purpose, quickly formed. He must wait until the 'Doctor' should be turned over for cross-examination. Mr. Kern began with a few flattering observations calculated to throw the witness off his guard and then, as if to further exploit the scholarly attainments of the witness (knowing full well he possessed none), the examiner quickly asked:

"'Doctor, in describing the sphincter muscles, please explain to the court and jury the difference, if any, between the functions and location in the human body of the "oribucularis oris" and the "orbicularis ani.'" "

"The doctor, bewildered and as far at sea as a mortal can ever be, overlooking the possibility of any trap, but thinking only of keeping up his front to the jury, replied in his most affable and composed manner:

"'Practically none, Mr. Kern, practically none. The terms are used quite interchangeably.'

"That question and answer removed the mask and was the end of the plaintiff's case. The doctor's usefulness had been destroyed. As the real meaning of the answer reached the presiding judge and filtered through the minds of the jury, the dignity of the court for the time was wholly lost. In thus exposing the ignorance and presumption of his opponent's chief witness, Kern had employed a means not only expressive of his contempt for so great an impostor, but one also gratifying to his own sense of humor.

"He was unselfish and never employed money as a standard in measuring the ability, honor or integrity of men. He earned good fees, but was never able to save, and like many public men of his type and greatness, was seldom free from the worry and anxiety of debt. Had his splendid talents and untiring energies been dominated by greed or open to employment by class interests for corrupt purposes, Kern might have amassed a fortune, instead of ending his life a poor man, but such opportunities never attracted him and his contempt for those who would lend their influence to base purposes because of the profit involved was well known to his friends. Much of his time was devoted without pay to the advancement of party, and this, together with his professional work, made for him a full and busy life. It was a clean, open and honorable one. He threw his entire soul into every engagement and much of his best energies were devoted to the interest of those who had grievances to remedy, but little or no money for compensation. If worthy, and possessing a just cause, this made little difference to Kern, and I have heard

him say: 'I am too busy with the things I believe in and am doing for the betterment of mankind to follow the sordid schemes of the mere money-grabbers, and I am happier that it is so.' How true this philosophy of Kern, a man developed from the people, and yet how difficult for most men to understand."

CHAPTER XXI

AT KERNCLIFFE

THE moment the burdens of official position fell from his shoulders, Senator Kern's heart turned to Kerncliffe with a longing to rest with the family to which he was ardently devoted, and from which he had been so long separated in the discharge of his senatorial duties. He had built the house upon the cliff in the hope of frequently joining Mrs. Kern and the children during the sessions of congress, but these visits were infrequent and almost invariably cut short by a telegram summoning him back to Washington. He loved this home in the Blue Ridge, where he could relax, ramble at will over the hills, and sit in the evenings holding the hands of his boys. The story of the making of a home on the cliff is interesting in itself.

The condition of John, Jr., had made it necessary for several years for the family to escape the insupportable heat of the Indianapolis summers in Michigan, and one morning at the breakfast table, after his election to the senate, Mr. Kern remarked that if the summer sessions of the senate continued he did not see how he could be satisfied with the family two days and a night away from him. Looking up quickly, John, Jr., said: "Why not go to Grand-

father Kern's place in the mountains of Virginia? Perhaps it's as cool there, and I would gain as much as in Michigan." The thought had never occurred to the Kerns, but in ten minutes it was arranged that they should go to Virginia to test the practicability of the plan upon the ground. Many times, in other years, while strolling about over the thousand acres, they had noted a particular ridge as an ideal site for a home, but they had never so much as ascended to the top. The result of the inspection was a determination to build a "shack" and try it out one summer. Reaching the place at noon, where they were met by a man with a movable saw mill and a mountain carpenter, the contract had been let by 6 o'clock for the sawing of thirty thousand feet of lumber, the place for the house had been staked off and the carpenter had been engaged. Without blue prints or architectural plans, Mrs. Kern planned her house that afternoon, and when it was found that the lumber would cost so little it was decided to "spread the house all over the hill." The rock for the foundation was found in their own mountain, beautiful white sand was to be had in abundance in their own creek bottom, and the sandstone for the fireplace, with shades of pink running through it, was found on their own ground—the thousand acres of woods, rocks and rough places. When Senator Kern's term in the senate expired, a hundred acres—thanks to

Mrs. Kern's energy and initiative—had been cleared and ditched for cultivation. For a description of the house I am indebted to the pen of Mrs. Juliet V. Strauss, well known as "The Country Contributor" to the readers of *The Ladies' Home Journal* and *The Indianapolis News*. This brilliant woman, an intimate friend of the Kerns, after a visit to Kerncliffe, wrote her impressions under the title, "The House That Araminta (Mrs. Kern) Built."

"I have never been anywhere in my life," she wrote, "where there are as many superlative comforts as there are at Kerncliffe, Araminta's summer home in Virginia. My idea of comfort does not comprise the rich woman's typification of luxury. I do not want things too fine—and I do not like a servant at my elbow. The presence of a great retinue of servants always hints of the undertaker. . . . Araminta is the best mixer I ever saw, and her 'mixing' is not affectation—it is greatness. For greatness finds its crucial test in knowing how to be common in the big sense of the word. If you are tried in the balance by a hair's breadth of snobbery or of preference for the effeminacy of luxury, you are really further from being great than if you missed some of the finer points of art or the subtler qualities of kindness.

"Nobody who wasn't great in spirit could have chosen this breezy wooded knoll between two mountain ranges and built a house with as many delectable things about it as Kerncliffe. It is a great thing

to know what you want and get it—so many of us do not—but Araminta is that way—she knows what she wants.

“There is a living room forty feet long with a huge stone fireplace and wicker furniture, books and piano and a victrola—and doors and windows opening up vistas of tree tops and mountain and valley. There’s a dining room in blue and white—also with a big fireplace; there’s a sitting room for the boys with their own books and treasures and a big fireplace; there’s a kitchen that would do your soul good, where we all go and cook and eat if we want to; and there’s Sunset porch where we eat supper and watch the sun go down behind the mountain.

“But up-stairs! Up-stairs there are four sleeping porches, and the birds in the tree tops are always calling, and far into the tranquil night with the accompaniment of just the faintest leaf whisper the whippoorwill trills a contralto serenade.

“Just now a bob-white is about to drive me mad with his calling from the wheat field. I know he says ‘Judge White,’ because my brother, dead—long dead, long dead—seems somehow conscious of my spiritual altitude—my exultation in these lovely surroundings.

“How I love the wild things that grow on the mountain and along the waysides in the cove. The blooming laurel, the huckleberry brush, the sweet climbing and vining things, and the smell of the hot sun on the dwarf pines. Every little growing thing seems intimate to me as though my soul had wan-

dered here for centuries and had just run back to welcome me.

“Up-stairs there is a den quite like my own at home. I do sincerely pity people who haven’t a little sheet-iron stove in their den. No matter how your house is heated, there is a primitive joy that exhales from the little sheet-iron stove on a cold morning or a rainy day which even transcends the comfort of a fireplace. Araminta would not be wholly great if she didn’t have one in a room where the rug and couch are shabby—it would spoil everything if they were not shabby—and the chairs have a pleasant sag in them, suggestive of agreeable family loafing.

“Every place where there ought to be there’s a window or a glass door. I never saw so many ways of letting in the breezes and for shutting them off if you want to as this house affords.

“I had my choice of two rooms. One is furnished in gray and mauve and has a beautiful view from the sleeping porch. The other is furnished in green with antique mahogany furniture—Napoleon bed, highboy with glass knobs—sewing table and lovely chairs; view from the sleeping porch not quite so good. Now which do you think I chose?

“There are dozens of little sanctuaries where one may write or read in pleasant or in tempestuous weather. Ever so many little lookout rest places with bench to invite the soul. There is Tree Top House—way up in an oak tree—a charming little house with a lookout tower in the tree top, where the leaves make an excited pattering of gossip for the

visitor. And then the lodge. Why doesn't everybody have a lodge? Its uses are legion. Such a place for 'nerves,' or for pouting, or for reading, or thinking—such a glorious place to slip off from the youngsters and play long sessions of bridge.

"Oh, Nerve Cheesewright, why can't you take a leaf out of Araminta's book and do some things you want to do? If you were here. But, never mind, I am not going to repine; this place has exactly the effect upon me which I always find at the seashore—a sense of utter detachment from the folks and the things I love—a mere joy in breathing that precludes all sorrow.

"Araminta was far too clever to choose too deep solitude for her lodge in a vast wilderness. She needs people and she surely has them.

"Roanoke is the most progressive city in Virginia—a bustling, busy, modern city, with no distinct flavor of the old régime in its business life. All sorts of progressive people are there. Only in the home of these splendid ancient families which have survived the war, the reconstruction period and the fatal 'boom' of the New South and come out stronger and better for it does one find the indestructible atmosphere of old Virginia, exquisite and indescribable unless you know Sarah and her folks—but this one is all about Araminta—Araminta who drew her own plans and stood over the carpenters and made them build her house her way and thus give to it the irregularity and felicitous crudeness which is its greatest charm.

"As to folks—there is a lovely diversity of them

here. Virginia has always been rich in folks. Araminta has for neighbors the cosmopolitan folks of Roanoke, the wonderful and noble people from the nearby college at Hollins, and the plain, sturdy farmers of the Cove. Many books might be written about all of them. Each neighborhood represents a phase of life, and Araminta rejoices in her friendship with all of them.

"The college is a little world in itself—'green little world amidst the desert sands' of life is an expression that fitly describes any place made beautiful by fine ideals and fine externals. Hollins is an historic place, for many years devoted to the higher education of women. The atmosphere of such a place is felt palpably in the vicinity, but it is of the people here in the Cove that I wish to speak particularly. Their little farms—their quaint homesteads—cling to the feet of the mountain and suggest romances such as John Fox or Lucy Furman might write. We went to a little white church at the foot of the mountain yesterday. I never did see such a flood of June sunshine as filled the Cove and made the Blue Ridge seem a deeper hue."

It was to this home, these scenes, these people, that Senator Kern turned for rest and inspiration during the long, dreary grind of his senatorial career. And the moment on his way from Hollins, four miles distant from Kerncliffe, in crossing the foot of Tinker mountain, he reached the highest point on his journey, and saw the lower part of the

valley of Virginia spread out before him in all its exquisite beauty, he was revived. On these visits he spent his time resting on the sleeping porches, reading, or tramping the hills. On these tramps he put on the garb of a mountain climber and carried a heavy cane as a protection against any snakes he might encounter. He was a keen lover of natural beauty, and on his tramps he seldom failed to uncover some hitherto hidden treasure—a little stream, a water-fall, some unique rock, or some variety of tree he had not known to be upon the place. Sometimes he went forth with ax and hatchet to help in the clearing of the land, and these implements were put away when he left to await his return.

Is it remarkable that he looked forward with infinite longing for Kerncliffe on his retirement from the senate? Here was his family. At Roanoke, near by, was his daughter Julia, wife of Dr. George Lawson, and little son. The great shadow that rested upon him at the time was concern over his health. He had so overtaxed his strength during the four years of constant vigilance as leader of the senate that his system had been unable to throw off the cold he had contracted and along with loss of weight and strength, his voice remained alarmingly husky. He was finally persuaded to go to the sanatorium at Asheville, North Carolina, for treatment, and on March 23, nineteen days after leaving the sen-



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ate we find him writing a characteristic letter to John, Jr.:

“ASHEVILLE, N. C., March 23, 1917.

“MY DEAR BOY:

“When I sent Mr. Brooks’ letter I had not yet received the *Brooks School News* containing accounts of your splendid record, a sample of your fine work, and telling of the esteem in which you are held by your teachers and fellow students. It’s a great thing to have such things to your credit, and I can’t tell you how proud I am of you, and how much joy I derived from reading the paper. It is great to have ability and pluck to conquer one’s way through the obstacles which are always present in school work, and all other kinds of work, but it is greater still to make the fight in such a way as to command the respect and love of your comrades, and all of those most closely associated with you. You should be happy in the knowledge that you are a great comfort to your parents and have convinced them that you are to live a life of usefulness which will bring honor to yourself and happiness to them.

“Of course there is lots of work before you yet, but you have demonstrated your ability to meet successfully whatever may come.

“I am hoping to be with you before very long. You may be sure I shall come as soon as I can.

“I hope my other dear boy is well by this time. He has good stuff in him, too, and I am sure will make a great success of life.

"Love to all my dear ones. I can't quite tell you how dear you all are to me.

"Affectionately,

"YOUR FATHER."

Doctor Von Ruck, after an examination, thought it possible that by ridding him of his cold and catarh he might be "straightened out," though he thought it doubtful, and we find Kern writing home, "I suppose I will stay here until there is a marked improvement," wistfully adding, "I would certainly like to be with you at Kerncliffe and be pottering around the place there instead of wandering around in the woods here." He found life pleasant enough at Asheville but for the longing for home. His health gradually improved, his cough diminished, and he was able to take long walks in the woods, and to do much reading and writing. Aside from his desire for Kerncliffe he was constantly harassed by the feeling that he could not afford to do nothing, with expenses going on, for he had given too much of his life to the public to have accumulated as he might, had he been more selfish. I had a letter from him from Asheville saying that he found he "did not respond to treatment as readily as he did ten years before," and would probably be there indefinitely, and within ten days the report appeared in the press that he was in Washington. The

story of May, June and July is told in detail in a letter to me—the last—written July 24th:

“I have been sick almost continuously since the 5th of this month—so sick that I have been unable to pay any attention to correspondence. I think I wrote you from Asheville, where I spent a few weeks in April and May. I went from there to Washington the forepart of May to meet Theodore Bell on a law matter of some importance. About that time I had a proposition from the Lincoln Chautauqua Association to fill the vice-president’s thirty-one engagements with that association in seven southern states, or as many as might be made before the adjournment of congress, commencing May 17th, and speaking every day, including Sundays, on the international situation—the aim and duties of patriotic Americans.

“The doctor advised against it, but I thought I would try it, and if I found it too much for me, I would quit. So before leaving Washington I called on President Wilson that he might give me a special message to the southern people—which he did—and that, I suppose, is the basis of the story that I was out speaking for the president on the food supply.

“I started on May 17th with two speeches in east Tennessee. I think I can give you my itinerary from memory: May 17th, Kingsport, Tenn.; 18th, Greenville, Tenn.; 19th, Cartersville, Ga.; 20th, Gainesville, Ga.; 21st, Monroe, Ga.; 22d, Covington, Ga.; 23d, Carrollton, Ga.; 24th, Decatur, Ala.; 25th, McMinnoitte, Tenn.; 26th, Tullahoma, Tenn.;

27th, Athens, Ala.; 28th, Anniston, Ala.; 29th, Meridian, Miss.; 30th, Gulfport, Miss.; 31st, New Orleans, La.; June 1st, Lafayette, La.; 2d, Alexandria, La.; 3d, Mansfield, La.; 4th, Shreveport, La.; 5th, Monroe, La.; 6th, Ruston, La.; 7th, Vicksburg, Miss.; 8th, Clarksdale, Miss.; 9th, Helena, Ark.; 10th, Bunkley, Ark.; 11th, Covington, Tenn.; 12th, Dyersburg, Tenn.; 13th, Brownsville, Tenn.; 14th, Humboldt, Tenn.; 15th, Hopkinsville, Ky.; 16th, Frankfort, Ky.; 17th, Carrollton, Ky.—all of which appointments I filled.

“It was getting pretty hot the end of the first week, and I was feeling very much fagged and was about ready to throw up the sponge, when the weather changed, and from that time on every night was cool (I spoke only at night), and by conserving my strength the best I could I thought I was stronger on June 17th than when I commenced.

“I was intending to come from Carrollton, Ky., directly here for a good long rest, except that in a moment of weakness I had promised the chautauqua people to open their chautauqua at Battle Creek, Mich., on June 25th. I had been corresponding with some New York people about an important legal matter, and when I got to Frankfort, Ky., on June 16th, I had a telegram from them that they wanted to see me in Washington the next week—the 19th or 20th. Mrs. Kern, with whom they had also been in communication, also wired suggesting that I go to Washington directly from Carrollton and finish everything so that when I reached home I could stay. So I wired them that I would be in

Washington the following Tuesday—the 19th and on until Sunday—and I went there. They couldn't get ready for the conference that week, and after waiting in Washington until Sunday I started for Battle Creek, Mich.

"I had tried to get out of that engagement, but the chautauqua people held me to it, and I went via Fort Wayne and South Bend, and made my speech at Battle Creek on the 25th. I started for home the next morning. I took a G. R. & I. at Kalamazoo and spent the hottest day of my life going to Cincinnati (through Fort Wayne again). I there had to take an upper berth to Roanoke and got to Hollins at noon the next day, pretty much played out.

"I rested all afternoon, slept next day until 10 o'clock, and while eating breakfast with Mrs. Kern about 10:30 and discussing with her the good times we were going to have, the telephone rang and here came a long distance message from my New York parties that their business was ripe, and that it was of the highest importance that I should meet them in Washington the next morning. Well . . . I took the noon train for Washington.

"I met the parties the next morning and I concluded it would take ten days to dispose of the business and made arrangements to stay. We got it going in good shape when I was taken sick. For two days I had high fever and was confined to my room, but the doctor was with me every day, and I would get out for an hour and take a pull at my case, and so on until we had gone as far as we could at the present time. The doctor fixed me up and told me

that when I got to Kerncliffe and relaxed I would be all right.

"Well, I came here and relaxed and at the same time collapsed, and was very sick for several days and have not been away from the house yet. The doctor was out to see me today and says I am much improved, but that I had so overtaxed myself for two months it would take a good while for me to get back to my normal strength.

"Now that is a true account of my doings since May 1st, written down with more or less difficulty to the end that 'the truth of history may be vindicated' . . . You can never complain now that I have never written you a long letter. I did not know I had the strength or the nerve to string one out to this length when I began."

It is characteristic of the man that during his really serious illness in Washington he concealed it from his family; quite as characteristic that in the midst of his illness, with the doctor calling daily, and he by sheer will power dragging himself from his bed for an hour's "pull" at an important legal matter, did not lose sight of the fact that the birthday of John, Jr., was almost at hand.

"WASHINGTON, July 5, 1917.

"MY DEAR BOY JOHN:

"I hope to be with you on the 7th, but for fear of a slip-up will send this check ahead, so that your mother will have the use of it a little earlier.

"It is very hot here, and I have felt the heat more than at any time this summer. In fact, I haven't been very well, but nothing serious, though I have had the doctor a couple of times. I may not be home until early next week, as I have been thrown back somewhat by my business. Uncle Roll (Cooper) comes in to see me every day.

"This last has been a proud year for you, as you have carried off everything in sight. We are all proud of you and love you dearly. I have no doubt but that new honors and many of them are to be yours in the future.

"Much love to all,

"YOUR FATHER."

Even in this letter, written under the conditions described, the never-failing love of fun crops out in the reference to a family joke about Mrs. Kern getting the boys' birthday checks.

After the collapse the serious nature of his illness was so impressed upon him that he reconciled himself to another absence from Kerncliffe and the family, and to returning to Asheville for an indefinite stay. Going by way of Washington he stopped for a day at the Congress Hall hotel, where he smilingly told Louis Ludlow, the correspondent, that he was "going to Asheville for a post-graduate course," and wrote a brief note to Billy, the younger son, inclosing a birthday check.

“WASHINGTON, August 8, 1917.

“MY DEAR BILLY:

“You are fourteen to-morrow and here is your check. You are now a great big boy, almost a young man, and I know you are going to be a good man, for it is in you. When I left you the other night I would have been glad to have told you how much I loved you and your dear brother and mother and sister, but I was too full to talk. I doubt if you will ever know what deep love your father has for all of you. My earnest prayer is that you boys will grow up to be good, honest, square, manly men.

“Lovingly,

“YOUR FATHER.”

He stood the trip to Asheville fairly well, but arrived on the morning of the 9th tired and with his lungs and throat irritated by the smoke of the numerous tunnels, and with a cough—“not a hard cough, but a hacking one.” Writing to Mrs. Kern on his arrival he said: “Doctor Von Ruck said I looked better than he expected to see me and if I would only stay with him long enough to give him a chance he felt sure he could fix me up, unless the examination tomorrow develops something unexpected. I told him I would stay with him this time until he has all the chance he needs.” On the following day after the examination, and just one week before his death, he wrote of the result of the examination in the last letter he ever wrote. The doctor found

his lungs in practically the same condition as in May, but his general condition much worse "owing to overwork and too great a tax on my energies." He had lost eight pounds since leaving the sanatorium in May. It almost instantly developed that the danger was in his general condition, and as disturbing symptoms developed and he grew weaker, Mrs. Kern was summoned from Kerncliffe. His mind was not at rest and he was disturbed in his sleep. The war distressed him and was constantly in his thoughts. When he fell into a doze he was busy with his work in the senate, or in making a Labor day speech which he had promised to deliver the first of September in Indianapolis. He realized that the end was near. Conscious to the last his death was peaceful.

The news that flashed over the wires announcing his death was the first indication most of his friends had that he was seriously ill. Telegrams from the highest station in the land down to the most humble poured in upon the stricken family. On the announcement of his death by Senator New in the senate that body adjourned after placing on the record the testimony of its appreciation of his life and public services. In Indiana particularly the shock was great. Press and public men, regardless of party, hastened to pay tribute to his character. Plans were being made to have the body lie in state in the ro-

tunda of the state house, where honor has been paid to Voorhees and Harrison, to Gray and Fairbanks and other distinguished servants of the commonwealth, when it was learned that he would be buried at Kerncliffe, where he had so longed for the opportunity to "rest." A week after his death a great throng filled the state house to hear tributes to his memory from William J. Bryan, former Governor Ralston, and Secretary of State Jackson, acting for Governor Goodrich, who was ill.

The simple and impressive story of the burial has been told in the *World News* of Roanoke:

"The burial of John W. Kern at Kerncliffe yesterday was in keeping with the character of the man.

"One for whom over 6,000,000 of his fellowmen had cast their votes for the second highest office in their power to bestow; whom his own state had ever delighted to honor; who had for four years been the leader of his, the dominant, party in the senate; who had, through a great world crisis, been an intimate friend and trusted counselor of the president; and who had measured up to the full stature of a man under every test which high office and trying circumstances could apply to him, was laid to rest in the presence of a few friends and neighbors and with a burial service of a sweet and beautiful simplicity appropriate to the strength and gentleness of his exalted character.

"Had time and circumstances permitted it, the nation would have chosen to give a patent expression to its sense of loss; his former colleagues and followers in the congress would have wished to pay the tribute of their presence, and his casket would have been covered with a profusion of flowers from the thousands who had learned to love as well as honor him.

"But his brief illness was not known to many, and even to these his sudden death was a sad surprise. So when it was decided to bring his body to his summer home in Carvin's Cove for burial only a few friends, made during his occasional brief stays in Virginia, and his neighbors there in the mountains had opportunity to attend his funeral.

"These, numbering about 200, assembled at the Kerncliffe home where the services were conducted under the direction of Dr. George Braxton Taylor, minister at the nearby Enon Baptist Church, and in conformity with the senator's well-known love of simple and unpretending things. A passage from the Scriptures read by a young man, friend and tutor to his sons; a prayer by Doctor Taylor, the singing of 'Abide With Me' and 'Come Ye Disconsolate' by a few of the ladies from Hollins, a few words from the heart of his friend, Mr. Lucien H. Cocke, telling of his life and its great service, followed by the removal of the body to the grave, where Mr. Joseph A. Turner closed the service with appropriate prayer, and the body of John W. Kern was laid to its last and perfect rest.

"It was at sunset above the waters of Carvin's

Creek, on one of the western foothills of Tinker Mountain that he was buried; there he himself had spent many of the days of his early youth; there he had hoped to find an age of rest from his long life of generous and untiring service to his country; and there he sleeps today.

“‘I lift up mine eyes to the hills from whence cometh my strength,’ says the Psalmist. So in all ages have said the nations of the world in their hours of trial. The strength of those great mountains woven into the warp and woof of his sturdy ancestry was John Kern’s heritage; the serene peace of their silent places was typified in the quality of calmness which was so marked in him; in his heart was the low deep music of their murmuring waters, and in his soul was the majesty of those everlasting hills.

“A sweet, a gentle, and withal a masterful life has come to its close, a nation has lost a leader and a statesman, a family has lost a father and a friend; and in the quiet peace of that secluded valley lies his weary body, now at rest, but the influence of his great, strong, simple, unpretentious manhood can not die.”

Here on a high slope overlooking a little bottom land that he had helped to clear is his grave, covered with daisies and wild roses, and marked by a great rough native sandstone monument, bearing the inscription written by John W. Kern, Jr.—“Here lies in Peace, the body of John Worth Kern; Resting

after the Labors of a Life Lived for the Welfare of the People."

In no more appropriate way could this story of such a life be closed than with the tribute of William B. Wilson, secretary of labor, the highest official representative of the working masses of America, whose champion he was; who knew him not only as the consistent friend of social justice, but from his position as a member of President Wilson's cabinet, knew him as a potential leader of the new day that dawned when Woodrow Wilson first took the oath of office:

"When a great man dies, it is easy to indulge in the usual and obvious language of eulogy, but when personal knowledge of his nobility of character is added to the respect and admiration inspired by his whole career, then words of praise become a labor of love, and through the very fullness of affection, it is difficult to give the feelings of the heart adequate expression.

"So in speaking of John Worth Kern. He belonged to a race of statesmen whose type and example was Abraham Lincoln. These unite simplicity and sincerity with ability and power. They are rugged and strong like the hills, genial and fruitful like the prairies, and like all these qualities of nature, honest.

"Throughout a long and distinguished public career which attained to eminence in the history of

his country, Senator Kern never wavered from his early ideals. Like all constructive men, he endeavored to adapt them to the necessities and requirements of a changing age, but he maintained them in their integrity to the last. They became part of the strong structure of better things—better because John Worth Kern lived.

“That in itself would be a great and satisfying tribute; but he had so many other endearing qualities that reminiscent affection is not content with the utterance of merely historical appreciation. He was not only loyal to his principles, he was in all right ways loyal to his friends. He had a fine courage of loyalty also. He would, whenever occasion demanded, give battle to aid a friend or uphold a principle; nor did he ever grudge patient and laborious toil to accomplish either result.

“Throughout the strenuous years of his mature manhood—nearly half a century of public life—his voice was always for the just and humane treatment of the toiling millions. It adds the element of pathos to our appreciation, to remember that for most of this time he struggled not only against the handicap of slender financial resources, but also against the disadvantages of delicate health.

“It is an inspiration when we think how much, notwithstanding these drawbacks, he accomplished. His name is written large in the annals of this age. He was a force for civic righteousness, for true progress, and for the nobler destiny of man.

“It is with deep personal regard and affection I

pen these lines. They are written in sincere and simple tribute to one of whom truly it can be said—

“ ‘None knew him but to love him,
None named him but to praise.’ ”

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